UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1999/SR.14
20 August 1999

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PROMOTION AND
PROTECTION OF HUMAN RIGHTS

Fifty-first session

SUMMARY RECORD OF THE 14th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 13 August 1999, at 10 a.m.

Chairman: Mr. HATANO

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(a) THE INTERNATIONAL ECONOMIC ORDER AND THE PROMOTION OF HUMAN RIGHTS;

(b) THE REALIZATION OF THE RIGHT TO DEVELOPMENT;

(c) THE QUESTION OF TRANSNATIONAL CORPORATIONS;

(d) THE REALIZATION OF THE RIGHT TO EDUCATION, INCLUDING EDUCATION IN HUMAN RIGHTS (continued)

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GE.99-14776 (E)

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The meeting was called to order at 10.05 a.m.

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS:

(a) THE INTERNATIONAL ECONOMIC ORDER AND THE PROMOTION OF HUMAN RIGHTS;

(b) THE REALIZATION OF THE RIGHT TO DEVELOPMENT;

(c) THE QUESTION OF TRANSNATIONAL CORPORATIONS;

(d) THE REALIZATION OF THE RIGHT TO EDUCATION, INCLUDING EDUCATION IN HUMAN RIGHTS

(agenda item 4) (continued) (E/CN.4/Sub.2/1999/10-12, 30 and 33; E/CN.4/Sub.2/1999/NGO/5, 8, 14 and 25; E/CN.4/Sub.2/1998/6; E/CN.4/1999/50)

1. Ms. MUNSHI (European Union of Public Relations), noting that only an enlightened mind could effectively contribute to the process of development and that the creation of such a mind was primarily a function of educational environment, said that her own country, Nepal, had for some decades been sending its young people to India for higher education because that country provided the requisite democratic environment that was the essence of true education.

2. In Pakistan, however, democratic norms were being nullified by an education system that had permitted the mushrooming of religious schools, or madrassas, whose curriculum included arms training. In the madrassas, children were fed only religious dogma; democratic principles were derided and modernization and scientific and technological endeavour were deemed the enemy. The Taliban were the most visible manifestation of what such an education could do to a country, but there was a clearly established connection between the religious schools in Pakistan and terrorist groups like Harkat-ul-Ansar.

3. Her organization was afraid that similar developments might take place in Nepal, as a result of attempts to export that ideology to other countries through funds to establish denominational schools which imparted a medieval curriculum. Nepal required resources for development, not resources to obscure the minds of its young people. The human rights community should examine the impact of fundamentalism and extremism on the development process so as to enable other countries in the neighbourhood of Pakistan to adopt pre-emptive measures and spare themselves the onslaught of violence and a derailment of the development process.

4. Mr. QUIGLEY (Franciscans International), speaking also on behalf of Dominicans for Justice and Peace, said that the accidental advantages and disadvantages of skin colour, gender and location exerted a tremendous force in determining a person's possibilities of developing and realizing full dignity as a human being. Racial and gender prejudices were among the most serious obstacles to equal opportunity in the realization of economic, social

and cultural rights, but there were also certain international structured obstacles that actively and passively blocked people's opportunities to exercise the right to development.

5. His organization was concerned that so many Governments turned a blind eye to the elimination by abortion and the abandonment of girl children, as well as to the lack of opportunities for their education; the human race could not develop properly when half its population was systematically neglected and denied an equal opportunity for personal growth. His organization was also concerned about the unsustainable burden of foreign debt repayments which frequently forced poor countries to reduce health and education spending and to cut employment in the civil service, thereby weakening national infrastructures and economies, deterring foreign investment and encouraging the flight of capital.

6. While welcoming the initial, albeit minimal, steps of the 1990 Cologne Debt Initiative, his organization was somewhat concerned that it seemed to give even more power to the International Monetary Fund (IMF) in that it called for poverty reduction measures to be regulated into IMF macroeconomic conditions although, in the past, the conditions of the IMF's structural adjustment programmes had been among the most significant institutional reasons for much suffering that had resulted in the neglect or violation of many human rights.

7. His organization was also concerned about the unsupervised activities of many transnational corporations which had serious repercussions for the rights of people to land, homes, health and development. It was particularly concerned that there had been very little discussion in the Working Group on transnational corporations about the worldwide increase in the contracting of paramilitary services to secure, clear and guard land purchased by or leased to transnational corporations. He gave the example of large tracts of land in Colombia, which had previously belonged to internally displaced persons and which were being patrolled and policed by security forces taking their orders from petroleum, mining and communications companies that had their headquarters in countries of the North.

8. The prime responsibility of the State for protecting the human rights of its citizens was seriously undermined by the practical necessity for countries to host transnational companies which were quite capable of moving elsewhere. For financial reasons, they turned a blind eye to any violence that cleared the way for such companies. The international collusion which allowed them to function with impunity concealed human rights violations behind a screen of publicity and the sponsorship of sporting events. States must work together to develop an enforceable international code of conduct to deal with transnational corporations, and his organization urged the Sub-Commission and its sessional working group to investigate and report upon the connections between transnational corporations, privatized security services and paramilitary groups, and their impact on the right to development.

9. Mr. MICHEL (December 12th Movement International Secretariat) said that the black people of the United States of America were still underdeveloped in every respect. Nearly one third of black families in the United States were

living below the poverty level, and unemployment levels for blacks were twice those for whites. The question of the development of blacks was clearly not on the agenda of the United States Government. More than 200 million Africans in the Americas were suffering from deliberately planned underdevelopment.

10. Africa, the world's poorest continent, was entering the twenty-first century with its right to development blocked by the structural adjustment policies imposed upon it by the IMF and World Bank. The nations of Africa would soon have to join the World Trade Organization (WTO) and, because Africa imported more food than it exported, would be forced to cut agricultural subsidies. That would become a matter of life and death for the 40 per cent of Africans already suffering from hunger or malnutrition.

11. His organization requested that the Sub-Commission continue its studies on the crippling effects of free trade and structural adjustment programmes on underdeveloped nations, and examine the idea of cancelling the foreign debt of those nations. It also called on the Sub-Commission to undertake a study on the damaging effects of the transatlantic slave trade and the question of compensation for Africa and the African diaspora which had been victims of that crime against humanity.

12. Ms. PROTVEZ (International Commission of Jurists), speaking also on behalf of Habitat International Coalition, said, with regard to the need to adopt the draft optional protocol to the International Covenant on Economic, Social and Cultural Rights, that a system for the examination of individual and group cases offered the only real hope of moving towards the development of a significant body of jurisprudence, which was absolutely indispensable if economic, social and cultural rights were to receive equal treatment with civil and political rights.

13. The adoption of the optional protocol would not only strengthen the recognition of economic, social and cultural rights as fully-fledged rights but would also permit their more thorough understanding and more precise definition through the examination of specific cases. It would encourage States to adopt legislative and policy measures to comply with obligations arising from the Covenant and would promote a better understanding of the Covenant and of the entire United Nations human rights protection system.

14. Adoption of the optional protocol would provide an opportunity to tackle the frequently raised but erroneous argument of the non-justiciability of economic, social and cultural rights and the inability of States to implement them without adequate resources. In its current text, the draft optional protocol recognized the possibility of submitting group complaints, and that would be very useful for communities such as indigenous and tribal peoples and minorities and for rights such as the right to food and the right to housing which had an important collective component.

15. With regard to the impact of economic globalization and international trade, investment and finance policy and practice on human rights, the optional protocol would help to clarify the effect of conflicting obligations imposed upon States through, on the one hand, international human rights treaties and, on the other hand, international economic agreements. The need

to protect vulnerable communities adversely affected by the impact of globalization and the necessity of acknowledging that that was a State obligation could also be clarified through the optional protocol.

16. The responsibility of transnational corporations for their violations of economic, social and cultural rights was also an important issue that ought to be tackled; through a more detailed examination of State responsibility, a system of individual and group complaints would provide an opportunity to clarify the nature of third-party responsibility in violations of economic, social and cultural rights.

17. The draft optional protocol had not so far received the support it deserved, and only a handful of States had submitted comments upon it in the past two years. Her organization hoped that the High Commissioner for Human Rights would call for the formation of a working group to undertake further consideration of the draft optional protocol. It urged the Sub-Commission to contribute to the formulation of strategies to support a global campaign to strengthen the protection of economic, social and cultural rights, in particular through the adoption of the draft optional protocol.

18. Ms. CASSAM (United Nations Educational, Scientific and Cultural Organization (UNESCO)) said that sub-Saharan Africa was the only region in the world in which the number of children not receiving schooling was actually on the increase. Since 1980, expenditure on education in sub-Saharan Africa had fallen by 60 per cent. Children were aware of the value of education, and, many of them, of their right to it, but the most basic of all human rights - the right to life - was not yet being respected by the adults around them. Hence the importance of human rights education, which alone could overcome ignorance, selfishness and violence, and foster a perception of the human person, possessed of a particular identity, and linked by bonds of shared humanity to others, respect for whose rights was a duty.

19. Human rights education must, therefore, extend beyond the school system and permeate the social circles - within the family, on the streets, in the market place and on the sports field - in which young people moved. In pursuing that objective, UNESCO could do little without its partners at all levels. Under the Plan of Action for the United Nations Decade for Human Rights Education (1995-2004), UNESCO had been called upon to play a leading role in the preparation, implementation and evaluation of many projects, and its "natural" partners were the organizations of the United Nations system, including the Office of the High Commissioner for Human Rights.

20. Recognizing that such activities are the concern of the United Nations system as a whole, the General Assembly had decided to proclaim the year 2000 the International Year for the Culture of Peace, and to proclaim an International Decade for a Culture of Peace and Non-Violence for the Children of the World.

21. Mrs. DAES said she wished to congratulate her colleagues on their working papers and on the introductions thereto. Mr. Guissé had undertaken a study on the right of access to drinking water and sanitation services which would analyse all aspects of that question. As for the crime of forced evictions, she believed that the Sub-Commission would be greatly assisted by

the preparation of a Secretariat note, accompanied by the report of the Seminar on the subject held at Geneva in mid-1997, and other relevant documents.

22. On the issue of integrating human rights concerns in the discussion of trade, investment and finance policy, she welcomed the comprehensive working paper (E/CN.4/Sub.2/1999/11) prepared by Mr. Oloka-Onyango and Ms. Udagama and agreed with many of its conclusions and recommendations. In particular, she supported the recommendation that a preliminary report on that difficult and complex issue should be prepared by the two experts and submitted to the Sub-Commission at its fifty-second session.

23. Mr. Eide's updated study on the right to adequate food (E/CN.4/Sub.2/1999/12) was a valuable contribution to the recognition and protection of that right. She shared his views on the globalization of the right to food and fully supported the conclusions and recommendations of the study, in particular the recommendation that every State should develop a national strategy, the first step in which should be to survey the situation of different groups and regions within the country. She strongly supported the action he proposed, including the preparation by the High Commissioner for Human Rights of a coherent United Nations strategy on freedom from hunger, and the holding of broad consultations with international and trade organizations and institutions with a view to establishing the joint and separate responsibilities of States to ensure access to food, particularly in situations of armed conflict and natural disasters. The Sub-Commission should recommend to the Commission that Mr. Eide's study be published and widely disseminated.

24. Mr. Mehedi's comprehensive working paper on the content of the right to education (E/CN.4/Sub.2/1998/10) quite properly urged that it should be considered as both a civil and political right and an economic, social and cultural right. The United Nations Decade for Human Rights Education, whose purposes had been defined by the General Assembly as training, dissemination and information efforts aimed at building a universal culture of human rights, was directed to the full development of the human personality and the promotion of understanding, and equality among nations and between racial, ethnic, religious and linguistic groups.

25. Mr. HUSSAIN (Observer for Iraq) said that the imposition of sanctions on developing countries was inconsistent with the aspirations of the international community. Those imposed on Iraq on the initiative of the United States of America and the United Kingdom had transformed it from a strong, prosperous country into one deprived of adequate food, medicine and medical care. They had resulted in the death of more than one and a half million people, most of them children, women and the elderly, and had lowered Iraq's position in the table of human development indicators from fifty-fourth in 1990 to one hundred and ninth in 1995, wiping out in an unbelievably short time the results achieved by years of exhausting efforts.

26. There was evidence that such negative effects had not gone unnoticed in United Nations circles: they had been referred to by the Secretary-General in his "Agenda for Peace" report in 1995. The Committee on Economic, Social and Cultural Rights had recommended the establishment of a mechanism to monitor

the effects of sanctions and develop a set of agreed principles and procedures based on respect for human rights. The failure of the Security Council resolutions regarding the "oil-for-food-and-medicine" agreement to meet the minimum needs of the people had led to structural imbalances that were difficult to reverse. He called upon the Sub-Commission to urge the Security Council to honour its obligations to protect the human rights of Iraqi civilians and take steps to avoid the embargo turning into genocide.

27. Mr. EL TALIB (Observer for Sudan) said that article 28 of the Sudanese Constitution recognized the inviolability of earnings and property, which were safeguarded by a number of executive bodies under the Ministry of Social Planning. The Ministry had also launched major initiatives for alleviating poverty by the provision of small credits to small enterprises run by family members. A Five-Year Plan had also been undertaken to implement the recommendations of the Beijing Declaration and Plan of Action, and, in 1998, a series of training programmes on handicraft industries with an initial participation of 128 women from the poorest sectors of society had been launched.

28. United Nations agencies had commended the efforts of his Government to carry out its undertakings under the International Covenant on Economic, Social and Cultural Rights, and its cooperation had been welcomed by the General Assembly. Economic privatization and liberalization programmes were being implemented and, in the period between 1989 and 1998, highways had been built connecting the different regions of the country, and an ambitious economic project on petroleum development had been inaugurated which would soon begin to generate revenues to be devoted to social welfare. The Government had set itself the target of eradicating illiteracy by the year 2005, and its educational programmes had, among other achievements, resulted in a spectacular increase in the number of university students.

29. Unfortunately, the economic sanctions imposed by the United States of America, exacerbated by the bombardment of a pharmaceutical plant in Khartoum, were serious impediments to economic development and were in clear contradiction to the resolutions of the Commission on Human Rights condemning unilateral coercive actions. Another serious obstacle to progress was the armed conflict in the south, and his Government associated itself with the Secretary-General's appeal to the rebel movement there to accept the recently declared ceasefire.

30. Mr. MUSHIRWAN (Observer for Malaysia), speaking also on behalf of Algeria, Bangladesh, Bhutan, China, Cuba, Egypt, Indonesia, Iran, Myanmar, Nepal, Pakistan, Philippines, Sri Lanka and Sudan, the sponsors of Commission on Human Rights resolution 1999/59 on globalization and its impact on human rights, said that globalization had not only economic, but also social, political, environmental, cultural and legal ramifications. While its impact on human rights was unquestioned, there was disagreement regarding the precise nature of that impact, and there was a clear need for an in-depth and comprehensive study by some United Nations human rights body, which the resolution in question had sought to initiate.

31. As Mr. Oloka-Onyango rightly pointed out in his working paper (E/CN.4/Sub.2/1998/8), much of what was said about globalization did not take

into account the relationships of power and domination, which were essential to a proper understanding of the phenomenon. During the negotiations on the resolution in the Commission, some people had argued that it was merely an attempt to divert attention from the failings of States, particularly developing ones, to promote and protect the human rights of their citizens. Paragraph 1 of the resolution did, in fact, unequivocally recognize the primary duty of States in that regard, but the importance of an enabling international economic order making it feasible for States to discharge their duty had also to be recognized.

32. In carrying out its study of the topic, the Sub-Commission would have to take into account not only the relevant United Nations reports but also the many studies available outside the United Nations framework. Among the questions which deserved special attention were the responsibility of other entities to assist States constrained in their ability to realize the human rights of their citizens as a result of globalization, and the possibility of a threat to the well-being and legitimacy of the international human rights system arising from globalization in situations where there was inequality of power relations between States or between States and individuals.

33. Mr. SABHARWAL (Observer for India) said that, given the indivisible and interdependent nature of human rights, the debate on the relative importance of civil and political rights, on the one hand, and economic, social and cultural rights, on the other, was futile and merely distracted attention from the practicalities of realizing the right to development. Democracy alone could ensure that people enjoyed the right to participate in the development process and the existence of poverty could not be invoked to justify the denial of political and civil rights. Vanquishing poverty and promoting development must be given priority not only for their own sake but also for the sake of promoting human rights. The so-called rights-based approach to development, which led to the imposition of conditionalities on development aid or even development itself, added to the burden that developing countries had to bear. It should be replaced by a "developmental approach".

34. There was an intrinsic relationship between the inequitable nature of the international economy and the inability of millions of people to exercise their right to development. During the fifty-fifth session of the Commission on Human Rights, the independent expert on extreme poverty, the independent expert on structural adjustment policies and the Special Rapporteur on education had recommended, inter alia, the following measures: a reversal of the declining trend in official development assistance (ODA); the transfer of technology to developing countries on reasonable terms; a lowering of protectionist trade barriers; the restructuring of international financial, monetary and trading systems; and giving developing countries a greater voice in global macroeconomic decision-making. He urged the Sub-Commission to focus its attention on the need for international cooperation along those lines.

35. He hoped that the process of reporting on action taken in the context of the United Nations Decade for the Elimination of Poverty (E/CN.4/Sub.2/1999/30) would be continued and would cover action by all relevant bodies, such as the United Nations Development Programme (UNDP), to promote the right to development.

36. He added his voice to the call by the observer for Malaysia for a study by the Sub-Commission on globalization and its impact on the full enjoyment of all human rights, in accordance with Commission resolution 1999/59.

37. Mr. JOINET said that his reservations concerning the preparation of a report on the right to education, notably because of the risk of overlapping with work under way in other bodies, had been dispelled by Mr. Mehedi's latest working paper on the subject (E/CN.4/Sub.2/1999/10). In particular, he appreciated Mr. Mehedi's reflections on the correlation between the complementary aspects of education as an individual and a collective right.

38. As an individual right, education served as an antidote to indoctrination. In that connection, Mr. Mehedi stressed the correlation between personality development and individual freedom, the goal of education being to develop people's capacity to make free choices. Another important point was that the right to education, as a social right, entailed a "positive obligation" for States to establish an education system that was free in both senses of the word and geared to the promotion of individual development at the local level and throughout the community. He looked forward to receiving Mr. Mehedi's final report at the Sub-Commission's next session.

39. Mr. RUIZ y AVILA (Observer for Mexico) said that 3,000 million people - about half the human race - were attempting to survive on less than US$ 2 a day; over 130 million children were not attending school; 1,500 million people had no access to drinking water and over 800 million people had not enough to eat. Moreover, new forms of racism, discrimination and intolerance of cultural differences were emerging.

40. At the same time, a concerted effort on the part of Governments and organized civil society would be sufficient to deal with poverty and the results of the population explosion, check the degradation of the environment and eliminate racial discrimination. The organizations of the United Nations system and the Bretton Woods institutions should work together to foster conditions conducive to optimum public policies. As Mr. Eide had put it, the agents of institutional globalization must proceed in tandem with the agents of universalization of human rights.

41. Education played a vital role in promoting social progress. His country's General Department of Indigenous Education had developed a bilingual and bicultural education system for the indigenous people. The illiteracy ratio tended to be higher, however, in small isolated indigenous communities where the establishment of basic facilities was hampered by material conditions. Nevertheless, indigenous pupils at all levels of education had access to free textbooks in their own languages. His authorities were determined to develop a culture in which all expressions of cultural and racial discrimination would be outlawed. The multi-ethnic and multicultural character of Mexican society was recognized in the Constitution.

42. The Programme to Combat Poverty (1995-2000) was based on a social development strategy to ensure universal access to education, health, vocational training and social security, and a strategy to eradicate extreme poverty through the promotion of productive activities, while conserving the

environment. The country's gross national product (GNP) had risen by 4.5 per cent in 1998 and a steady pace of job creation had been maintained. The resources devoted to social development were equivalent to 8.9 per cent of gross domestic product (GDP) and were distributed in large measure through a decentralized mechanism. The Programme for Education, Health and Food would benefit 2.3 million families in 1999 and create over 600,000 jobs. The authorities were giving high priority to the principle of equitable development. But combating structural poverty was no easy task: it would take time and resources as well as a determined and concerted effort by civil society and the Government.

43. Mr. FERRER RODRÍGUEZ (Observer for Cuba) said that Mr. Eide's updated study on the right to food (E/CN.4/Sub.2/1999/12) contained a number of useful recommendations to the High Commissioner for Human Rights designed to develop the role of her Office and of the United Nations in promoting that right, as well as recommendations to States regarding international cooperation, debt relief, the need to guard against the possible negative impact of transnational corporations and respect for other countries' right to food, including the inadmissibility of using food as a weapon.

44. The World Conference on Human Rights and the Commission on Human Rights had enjoined States to abstain from unilateral action that hampered trade among States and prevented people from exercising their right to an adequate standard of living, including access to food, health care, housing and social services. The United States had, however, imposed unilateral economic sanctions on dozens of countries, accounting for 42 per cent of the world population. For almost 40 years, it had maintained an unlawful economic, commercial and financial embargo on Cuba, although the General Assembly had been calling for its termination for a number of years. Effective action must be taken to end such unilateral action which was a systematic and flagrant violation of the human rights of entire peoples.

45. He welcomed the working paper prepared by Mr. Oloka-Onyango and Ms. Udagama (E/CN.4/Sub.2/1999/11) on human rights as the primary objective of trade, investment and financial policy. The phenomenon of globalization had repercussions on many aspects of human life. If the international financial institutions had themselves begun recently to study the social and human rights impact of their policies, it was only logical that social and human rights bodies should follow suit.

46. Despite the myth that globalization tended to have a similar impact on all individuals and countries, the perceptible reality was that discrepancies in terms of exclusion were becoming more pronounced within and between countries, the developing countries being the worst hit. Those who sought to maximize profits were impervious to such concerns as development, cooperation and protection of the environment. Financial institutions that advocated indiscriminate privatization and reductions in public spending were preventing States from fulfilling their responsibility to promote development and to guarantee the right to education, health and employment.

47. A small number of transnational companies had become more powerful than the majority of developing countries. The debt burden, the downward trend in

commodity prices and the rise in speculative investment all contributed to the current international economic disorder. The United Nations human rights mechanisms, including the Sub-Commission, had a duty to examine the issues involved and to propose solutions.

48. Mr. CHOWDHURY (Observer for Bangladesh) said that the interdependence of democracy, development and human rights had become well recognized. One category of rights was not to be downplayed at the expense of another. Although the world had the combined resources to eradicate abject poverty, it lacked the collective will to do so. According to the 1999 Human Development Report, the assets of the world's three wealthiest persons amounted to more than the combined GNP of all the least developed countries. Billions of dollars were spent each year on weapons of mass destruction while millions of people were allowed to die of hunger and lack of medical care. He suggested that the Sub-Commission should study the topic of "disarmament, development and the enjoyment of human rights".

49. Effective implementation of the Declaration on the Right to Development called for a balance between the "basic needs strategy" and the "rights-based approach". The satisfaction of basic needs was an immediate challenge in the fight against poverty. Access to capital and other productive forces was important in the longer term. Mobilizing social capital called for institutional changes conducive to the empowerment of the poor. The advancement of women and marginalized groups was both a moral and an economic imperative.

50. An enabling international economic environment was an essential buttress for national action to implement the right to development. Urgent safeguards were needed to ensure that the benefits of globalization were equitably shared. In that connection, he associated himself with the statement by the observer for Malaysia. Human development and social protection were essential ingredients of the policies and practices of global governance. That would require a new development consensus and an appreciation of the link between a developed South and global peace and stability.

51. He welcomed the working paper by Mr. Oloka-Onyango and Ms. Udagama (E/CN.4/Sub.2/1999/12), which drew attention to the human rights obligations of multinational institutions and emphasized the need for an in-depth study of the relationship between trade, investment and finance policies and practices and human rights.

52. Bangladesh's national development strategy focused on community participation and empowerment of the marginalized, particularly women. Its micro-credit initiatives had been particularly successful and widely emulated.

53. His delegation was pleased that the General Assembly had recommended, in its resolution 53/155, that consideration be given to the drafting of a convention on the right to development and looked forward to constructive discussions of the matter in the working group on the right to development. It was also encouraged by the high priority given to the right to development by the High Commissioner for Human Rights. It was a right that should be mainstreamed in all relevant United Nations programmes.

54. Mr. HASSAN (Observer for Pakistan) said that the working paper by Mr. Oloka-Onyango and Ms. Udagama (E/CN.4/Sub.2/1999/11) provided many useful insights into the relationship between human rights and trade, investment and finance issues. The starting-point for any such study should be the contribution of policy and practice in those areas to the realization of the right to development. It would be useful to discover to what extent traditional policy prescriptions of liberalization, privatization and deregulation were contributing to broader development goals. The World Bank was itself reviewing their effect and the United Nations Conference on Trade and Development (UNCTAD) was considering the need to formulate development strategies that incorporated elements other than those prescriptions.

55. Recent experience indicated that developing countries were unable to regulate the pace of liberalization in accordance with their development levels. Many of them had been compelled to open their markets, even in the absence of adequate regulatory and institutional mechanisms. The resulting economic disruption had adversely affected the social and economic conditions of millions of people.

56. There was also increasing evidence that existing trade and financial regimes were not resulting in a "mutuality of benefits" for developed and developing countries. For example, the expected liberalization of trade in textiles and agriculture, areas in which many developing countries had a comparative advantage, had not materialized and the major trading nations continued to resort to protectionist measures. On the other hand, the developing countries had opened up their markets in areas of greater interest to the industrialized countries.

57. The effect of the decision-making processes of major international institutions on the formulation of equitable trade and financial regimes should be assessed. Weighted voting arrangements and other mechanisms based on power rather than equity should be analysed and rectified. While developed countries were supported by institutions such as the Organization for Economic Cooperation and Development (OECD), the developing countries had no such resources to rely on when engaging in complex trade and financial negotiations. The resulting regimes were consequently skewed in favour of the developed countries.

58. The duty of private enterprises, particularly multinational corporations, to contribute to the development goals of host countries should be paid serious attention. The 1999 Human Development Report suggested that concepts such as a code of conduct for transnational corporations and the OECD Guidelines for Multinational Enterprises needed to be reviewed and strengthened.

59. Protectionism and economic coercion in the guise of the promotion of human rights and the use of human rights to restrict the access of developing countries to markets and sources of capital must be unequivocally rejected.

60. Mr. MEHEDI thanked his colleagues for their important contributions to the discussion on the right to education. They had emphasized the need to educate young people in democracy and human rights; to eliminate educational inequalities; and to establish educational programmes stressing the

indivisibility of all human rights. They had also stated that the problem of rural women and the impact of armed conflicts on the right to education needed to be addressed in greater depth. He would take careful account of all those comments and criticisms in preparing his final report for submission to the Sub-Commission at its fifty-second session.

61. Mr. OLOKA-ONYANGO thanked all the participants for their useful comments on the working paper submitted by himself and Ms. Udagama (E/CN.4/Sub.2/1999/11), and on his working paper on globalization (E/CN.4/Sub.2/1999/8). He welcomed the almost unanimous endorsement of the need to continue the study of globalization. The vision and indeed the phenomenon of globalization were contested, and it was thus important to continue the process of coming fully to grips with its various dimensions and its varied impacts, both negative and positive.

62. Globalization demonstrated that the various categories of human rights could not be considered in isolation: if a holistic approach was adopted, the solutions eventually found would be all the more enduring. Of paramount importance was the role of concerted and collective action by the institutions created to address global problems, such as the WTO, the IMF and the World Bank; by States and Governments, whether in the North or the South; and by all individuals who stood in danger of being eclipsed by the development of Frankenstein-like regimes of trade, finance and investment.

63. Mr. EIDE said that the international follow-up to the World Food Summit had placed the right to food at the forefront of the human rights agenda. It was encouraging to note that more and more NGOs were taking seriously the right to adequate food. With the completion of his updated study (E/CN.4/Sub.2/1999/12), his work on the subject on behalf of the Sub-Commission was finished. However, he would shortly be circulating a draft resolution on the follow-up to the recommendations contained in his study and the process of eliminating hunger would, of course, continue in other forums.

64. He strongly endorsed the recommendation by the International Commission of Jurists concerning the desirability of adopting the draft optional protocol allowing for communications to be submitted regarding economic, social and cultural rights. Some misgivings had been expressed in that regard but he was confident that a closer analysis of the issues would dispel many of those doubts, most of which were the result of misunderstandings.

65. He congratulated Mr. Oloka-Onyango and Ms. Udagama on their ground-breaking joint study. In the interests of avoiding duplication, however, he proposed that their next report should place more emphasis on the impact of the main actors in the globalization process, namely, the IMF, World Bank and the WTO, on respect for human rights. In conclusion, he echoed the proposals made by other members that, in his final report, Mr. Mehedi should pay particular attention to the right to human rights education, the obstacles thereto, and ways of surmounting those obstacles.

66. Mr. H'JSSAIN (Observer for Iraq), in a statement equivalent to the right of reply, said it was regrettable that paragraph 90 of Mr. Eide's otherwise commendable study on the right to adequate food (E/CN.4/Sub.2/1999/12) did not

properly reflect the situation in Iraq. The report of the Special Rapporteur on the situation of human rights in Iraq (E/CN.4/1998/67) referred to therein was not an objective treatment of the issues. The Food and Agriculture Organization of the United Nations (FAO) had paid tribute to the Iraqi Government's efforts to provide food and medicine in the period prior to the signing of the "oil-for-food" agreement.

67. Moreover, it must be borne in mind that, since the signing of that agreement, the United States of America and the United Kingdom had attempted to impede the implementation of contracts for the purchase of food and medicine. Iraqi oil-producing facilities had been repeatedly bombed, thus affecting Iraq's capacity to feed its citizens; and attacks had been unleashed on desalination plants and on unharvested crops. Under the pretext of implementing United Nations resolutions, the United States of America and the United Kingdom were pursuing a policy of genocide against the Iraqi people. All those facts should have been fully reflected in paragraph 90 of Mr. Eide's study.

68. Mr. EIDE said that paragraph 90 of his study reflected the view of the Special Rapporteur of the Commission on the question. That view was qualified in paragraph 91 of his study, in which he pointed out that not only the Government but also the international community nad the responsibility to ensure that sanctions did not cause serious violations of human rights, in particular the rights to food and to be free from hunger; that the responsibility of the international community remained even when the target Government did not cooperate or when it discriminated between groups in their access to food; and that those who had initiated the sanctions remained responsible for taking corrective measures to ensure access to food.

THE IMPLEMENTATION OF HUMAN RIGHTS WITH REGARD TO WOMEN:

(a) TRADITIONAL PRACTICES AFFECTING THE HEALTH OF WOMEN AND THE GIRL CHILD;

(b) THE ROLE AND EQUAL PARTICIPATION OF WOMEN IN DEVELOPMENT

(agenda item 5) (E/CN.4/Sub.2/1999/13 and 14; E/CN.4/Sub.2/1999/NGO/5)

69. Ms. WARZAZI (Special Rapporteur on traditional practices affecting the health of women and the girl child), introducing her third report (E/CN.4/Sub.2/1999/14), said that, two months previously, she had had to choose between, on the one hand, not submitting any report at all to the Sub-Commission at its fifty-first session, because of the dearth of replies from Governments concerning implementation of the programme of action on the elimination of traditional practices affecting the health of women and the girl child; or else preparing a report setting out the background to the question and the national and international initiatives already taken to eradicate those practices, particularly female genital mutilation. That historical overview and analysis of the progress made since 1982 would enable the Sub-Commission to assess the achievements and should lead to suggestions and recommendations on how to deal with the obstacles encountered, including the silence of the States concerned.

70. While there was reason to welcome the action taken in countries where female genital mutilation was practised, the action by specialized agencies that had resulted in increased awareness among the populations concerned of the harmful effects of that practice and the commitments by a number of Governments, civil society, the media and religious leaders, the situation concerning other traditional practices remained shrouded in silence.

71. Yet female genital mutilation was not the only harmful traditional practice, however. There were also the adverse effects associated with the problem of dowries in certain parts of the world, crimes of honour, the rape of women and young girls, often by members of the family, the infanticide of girl children, suttee, devadasi, the transfer of widows to the deceased husband's brother, and a number of other practices that degraded women because they were regarded as the property of men. Their only right was to remain silent and endure their fate.

72. The lack of information from the Governments concerned ought to have been offset by the information submitted by national NGOS and women's associations. However, hardly any such information had been submitted. Whatever the reason for that silence, the situation needed to be rectified.

73. Greater efforts must be made to raise awareness and secure active involvement at the international level. To that end, three regional seminars should be held on the question, in order to analyse the progress made and the obstacles to be overcome. Of the seminars, one should be held in Asia, a second in Africa, and the third in Europe, where many States faced serious problems resulting from the presence on their territories of large numbers of migrants from countries where female genital mutilation and other harmful practices were widespread.

74. In her report she had expressed great concern at the way in which that question was dealt with in some receiving countries. While the practice must of course be eradicated, there was a right way and a wrong way of going about it. Condemnation must be balanced by positive dialogue and enhancement of awareness among the people concerned. Condemnation of a practice and the measures taken to combat it must never be an expression of contempt for the culture of others. It was thus crucially important to hold a seminar in Europe in order to facilitate dialogue between government officials, representatives of the communities concerned and NGOS from the receiving and sending countries. Only through goodwill and mutual understanding could such traditional practices be eliminated without ill feeling and in a spirit of respect for other people's cultures.

The meeting rose at 12.55 p.m.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1999/SR.15
22 October 1999

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PROMOTION AND
PROTECTION OF HUMAN RIGHTS

Fifty-first session

SUMMARY RECORD OF THE 15th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 13 August 1999, at 3 p.m.

Chairman: Mr. RIBOT HATANO

later: Mr. MEHEDI

CONTENTS

THE IMPLEMENTATION OF HUMAN RIGHTS WITH REGARD TO WOMEN

(a) TRADITIONAL PRACTICES AFFECTING THE HEALTH OF WOMEN AND THE GIRL CHILD

(b) THE ROLE AND EQUAL PARTICIPATION OF WOMEN IN DEVELOPMENT (continued)

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Any corrections to the records of the public meetings of the Sub-Commission at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.99-14881 (E)

The meeting was called to order at 3 p.m.

THE IMPLEMENTATION OF HUMAN RIGHTS WITH REGARD TO WOMEN

(a) TRADITIONAL PRACTICES AFFECTING THE HEALTH OF WOMEN AND THE GIRL CHILD

(b) THE ROLE AND EQUAL PARTICIPATION OF WOMEN IN DEVELOPMENT

(agenda item 5) (continued) (E/CN.4/Sub.2/1999/13, E/CN.4/Sub.2/1999/14, E/CN.4/Sub.2/1999/NGO/5)

1. Mr. LITTMAN (Association for World Education) quoted a study published recently by the International Jewish Women's Human Rights Watch in Jerusalem, in which the author stated that it was not only in Muslim and Catholic countries that women's rights were violated in matters of marriage and divorce. Jewish religious law on those specific points, as interpreted by Orthodox rabbis, was incompatible with the international human rights instruments, including the Beijing Declaration and Platform for Action. Until the Orthodox religious establishment accepted a compromise, the rights of Jewish women seeking to divorce would continue to be flouted.

2. Referring to the situation of women in Afghanistan, he drew attention to resolution 1998/17, which the Sub-Commission had adopted the previous year on that subject. The sixth preambular paragraph of the resolution stated: "Fully aware that the Cairo Declaration on Human Rights in Islam ... guarantees the rights of women in all fields". The Cairo Declaration on Human Rights in Islam in fact established Shariah law as the supreme reference for human rights, placing it above the Universal Declaration of Human Rights, and the Association for World Education regretted to have to point out that an instrument based on any one religion could not be considered as an instrument applicable to the international community as a whole. It was thus totally unjustified for the Office of the High Commissioner for Human Rights to have included the Cairo Declaration among regional human rights instruments in the second volume of the recently published Compilation of International Instruments. He wished to emphasize that the Cairo Declaration was not a regional instrument.

3. With regard to traditional practices affecting the health of women and the girl child, a shameful euphemism for female genital mutilation, he drew attention to the statement which the association he represented had made to the Commission on Human Rights on 14 April 1999 concerning that plague, which should be labelled a "crime against women".

4. Ms. CECHUROVA (Transnational Radical Party) expressed her appreciation for the report by the Secretary-General on the situation of women in Afghanistan (E/CN.4/Sub.2/1999/13). It would appear from the report that the Taliban authorities were beginning to take a more flexible attitude, particularly in some urban areas, with regard to women's access to education, employment and health care. However, in view of the absence of United Nations agencies and the very limited presence of humanitarian organizations in Afghanistan, it was to be feared that violence, including physical violence, against Afghan women would remain largely hidden.

5. Religious law and customs could not be allowed to prevail over international law and humanitarian rules. In that connection, the Transnational Radical Party wished to point out that a body of the United Nations, namely the United Nations International Drug Control Programme (UNDCP), had concluded an agreement with the Taliban. That agreement, which involved a considerable amount of money, was apparently aimed at the eradication of poppy straw in Afghanistan. Apart from its questionable efficiency, that step was likely to provide legitimacy to the regime put in place by the Taliban.

6. In conclusion, the Transnational Radical Party supported all the recommendations contained in the Secretary-General's report on the situation of women and girls in Afghanistan, including the establishment of a dialogue under the auspices of the United Nations to ensure the protection of Afghan women's rights. It was convinced that, with the exception of humanitarian aid, all programmes of cooperation with Afghanistan should be suspended.

Mr. Mehedi took the Chair.

7. Ms. BERINGER (World Organization against Torture) said that her organization had just completed a study on violence against women in 78 countries around the world.

8. In Asia, and particularly in India and China, sex-selective abortions and infanticide had led to a considerable decrease in the female population. The World Health Organization reported that the sex ratio stood at 117 boys to 100 girls in China. Other consequences of son preference were the neglect of girls in all fields and the promotion of early marriage, which could lead to early childhood pregnancy.

9. In Argentina and Bolivia, when a girl was raped she might be forced to marry the rapist. In Pakistan, a female rape victim could even be prosecuted for fornication or adultery, especially if no traces of bodily injury were found.

10. Despite some encouraging signs of progress with new legislation and procedures, the information received from the different sources showed that, in the overwhelming majority of cases, States were failing to meet their obligations to prevent, investigate, prosecute and punish violence against women.

11. Unable to ignore that situation, the World Organization against Torture had established a system of urgent appeals to assist the victims. It had, for example, highlighted the case of Margaret Arach, a Ugandan victim who had been physically and psychologically abused by her husband.

12. Her organization deplored the lack of an international instrument dealing explicitly with gender-specific forms of violence against women. It was also regrettable that, despite the provisions on that subject in the Vienna Declaration and Programme of Action, the treaty bodies had not fully integrated a gender perspective in their work. The Sub-Commission must insist that all United Nations human rights mechanisms and bodies pay special

attention to gender-specific forms of violence and collaborate actively with the Special Rapporteur on violence against women to find concrete means of putting an end to such practices.

13. Ms. BERAUN (American Association of Jurists) said that the organization she represented had on numerous occasions emphasized women's crucial contribution to national economies, a contribution that was in fact a form of subsidy never reflected in the statistics. The American Association of Jurists had also denounced the discrimination experienced by women in the field of employment, in terms of both remuneration and job security and promotion. Today, invoking market laws and a supposed need for greater cost effectiveness, States had cut some social services, such as child-care facilities and free school meals, and women therefore had to work even harder to fill the gap. In that light, some thought might be given to what the concept of women's participation in development actually meant. A number of studies suggested that participation in development was a euphemism, often involving poorly paid or unpaid work performed by women for the benefit of the community. It was as though society believed that women could be exploited endlessly.

14. Child labour associated with extreme poverty was another contemporary phenomenon that was manifested particularly in developing countries, but it also affected the developed countries, especially those which, like the United States and the United Kingdom, applied neoliberal policies. Those policies took no account of the individual human being. In such countries, international human rights standards were subordinated to the concerns of productivity, competition and above all the accumulation of enormous profits for those who held power and capital resources.

15. She wished to take the opportunity to make an urgent appeal to the Sub-Commission on behalf of a number of female political prisoners in Peru. Those women, one of whom was called María Concepción Pincheira, had been beaten by the police for agreeing to an interview with Chilean journalists. The American Association of Jurists urged Red Cross staff to pay a fact-finding visit to those prisoners.

16. Ms. LEVERGER (France-Libertés) drew attention to the sufferings of women in the Balkans, many of whom had been victims of collective or individual rape. Such cases had occurred in the town of Foca, for example, where many Muslim women had been placed in a camp precisely in order to be raped. Similar crimes had been perpetrated in Kosovo, both by Serbs against women belonging to families that supported the UCK and by members of the UCK to punish families if one family member had worked for the Serbs. France-Libertés called for all those guilty of rape in the former Yugoslavia to be brought to justice.

17. France-Liberté furthermore joined with other NGOs in emphasizing the dramatic situation of Afghan women, who were victims of sometimes lethal acts of discrimination. Women in Afghanistan were being prevented from receiving medical care and men preferred to leave them in front of hospitals when they were about to die rather than risk punishment from the Taliban. France-Libertés urged the Sub-Commission to do everything possible to protect the rights of Afghan women.

18. Mr. CHANG HWAN (International Association of Democratic Lawyers) said that, although women were making a major contribution to social development, their dignity and rights continued to be flouted. The Sub-Commission should find practical ways and means to put an end to violations of women's rights. The situation of women reduced to sexual slavery by the Japanese army during the Second World War was a particularly grave manifestation of such violations. Those atrocities were now fully disclosed, but Japan continued to adopt an evasive stand concerning its responsibilities. In addition, the situation of Koreans living in Japan was a matter of concern, as Korean children could not receive a proper national education. The International Association of Democratic Lawyers requested the Sub-Commission and the international community to urge the Japanese Government to demonstrate its will to remedy past crimes with practical action, including due compensation for the victims and their families.

19. Mr. GUISSE commended Ms. Warzazi on her clear and very comprehensive report on the situation regarding the eradication of traditional practices affecting the health of women and the girl child (E/CN.4/Sub.2/1999/14). Such traditional practices could not be expected to disappear overnight. Ending them would take time and it was especially important to inform the public about their consequences for women's physical and mental health.

20. He felt, like Ms. Warzazi, that a problem related to traditions should not be dealt with by penal measures. Otherwise, "innocent" - or uninformed - persons might be brought before the courts not even realizing that they had committed an offence. The practices in question had to be stopped without trauma for the people concerned and that would mean instituting arrangements that focused on raising awareness rather than taking tough legal action.

21. Mr. PINHEIRO (Rapporteur) congratulated Ms. Warzazi on the quality of her report, which contributed to a better understanding of the problem caused by the practices that persisted in some countries, as well as the cultural aspects of those practices.

22. He felt that the Sub-Commission should call upon Governments and non-governmental organizations to cooperate more actively with the Rapporteur and to support the proposal to hold three regional seminars on the question, in Africa, Asia and Europe. Those seminars would help in formulating effective strategies to combat the adverse effects of the traditional practices in question, while respecting cultural diversity.

23. Ms. McDOUGALL said that she wished to focus on the gender dimensions of racial discrimination. She welcomed the fact that United Nations bodies, and in particular the Sub-Commission, were paying special attention to the human rights of women. A complete analysis of the gender dimensions of racial and other forms of discrimination was of critical importance to removing all obstacles to equality encountered by both men and women. As had been recognized at the World Conference on Human Rights and at the Fourth World Conference on Women, the promotion and protection of human rights in general did not automatically promote and protect women's rights.

24. Racial discrimination did not always affect women and men in the same way; there were circumstances in which racial discrimination solely or

primarily affected women. Land reform in indigenous communities must therefore address women's rights to own and inherit land and property. Also, by looking closely at data relating to discrimination in employment, one might expose a host of issues that affected women members of disadvantaged racial or ethnic groups.

25. The United Nations Development Fund for Women (UNIFEM) and the United Nations Division for the Advancement of Women had done useful work to develop guidelines and practical steps for conducting a gender analysis of various forms of discrimination, including racial discrimination. Statistics compiled on racial groups must also be disaggregated by gender within those racial groupings to highlight disparities in treatment and patterns of discrimination based on race and on gender, as well as on the intersection of both race and gender. However, a comprehensive analysis needed to go further. It must focus on the different roles of men and women in society and show how those differences added to the burdens of women in disadvantaged communities.

26. The Special Rapporteur on racism, racial discrimination, xenophobia and related intolerance had made efforts to report on racial discrimination as it specifically affected women in various contexts (E/CN.4/1996/72/Add.1 and E/CN.4/1995/78/Add.1). The Special Rapporteur on violence against women had also addressed issues of racial discrimination in her reports (E/CN.4/1995/78/Add.1 and E/CN.4/1997/47/Add.3). For its part, the Committee on the Elimination of Racial Discrimination had examined the many areas in which the combination of gender and race strengthened discrimination. The work of the special rapporteurs and of the Committee on the Elimination of Racial Discrimination deserved the attention of all the United Nations human rights mechanisms, including the Sub-Commission, and she hoped that the latter would include a focus on those issues in its preparatory work for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

27. Ms. BIONDI BIRD (International Confederation of Free Trade Unions) urged the Sub-Commission to take a stand on the persistent inequalities between men and women, particularly at the workplace, in both developed and developing countries. In the United States, wage discrimination represented a total loss of income of some $200 billion a year for women workers and particularly affected single mothers in the poorer strata.

28. Women's rights also had to be protected in the area of nutrition. In that regard, statistics provided by the Food and Agriculture Organization of the United Nations (FAO) showed that women were responsible for more than half of the world's total food production, and that proportion was even higher in rural areas of the developing world. With regard to education, more than half of the children not attending primary school in developing countries were girls, and women represented nearly two thirds of illiterate adults. At its seventh world women's conference, the International Confederation of Free Trade Unions had identified several goals to achieve equality for women at the workplace: inclusion of gender issues in collective bargaining; equal wages for work of equal value; access for women to promotion and high-level positions; gender awareness-raising for men workers as well as employers (combating violence and harassment at the workplace); and vocational training and continuous training for women.

29. Ms. FUTEHALLY (Himalayan Research and Cultural Foundation) welcomed the Sub-Commission's concern to address the issue of the implementation of human rights with regard to women and its appointment of a Special Rapporteur on violence against women, including its causes and its consequences. The reports on traditional practices affecting the health of women and the girl child had helped to expose the abuses to which women were subjected in different parts of the world.

30. In Afghanistan, as indicated in the report of the Secretary-General on the situation of women and girls in that country (E/CN.4/Sub.2/1999/13), women were particularly affected by the 20 years of conflict. In the name of religion, the Taliban had denied women all their rights and even prohibited their access to health care. The Sub-Commission must study that question seriously, since Afghan women were not only losing everything they had gained, but were in some cases even being brutally tortured and killed.

31. The influence of the Taliban could be felt in Pakistan, where existing laws were biased against women, and in the Indian State of Jammu and Kashmir, where a number of women had been killed by hanging or shot dead. Recently, two schoolgirls aged 12 years had been shot in the legs in a locality of Srinagar for wearing skirts.

32. The Sub-Commission must take note of that phenomenon, which was all the more disturbing for the future of Muslim women because it was gradually spreading to other parts of the world, and must devise appropriate mechanisms to deal with the situation.

33. Mr. CHANG HEUNG (Asian Women's Human Rights Council) said that the organization he represented welcomed the report submitted by Ms. Coomaraswamy on violence against women (E/CN.4/1999/68).

34. In Japan, there had been about 200 cases of violations of the rights of minorities during the current decade. Most of those cases involved violence against Korean schoolgirls wearing their national costume. The girls had been attacked by Japanese, who had slashed or ripped their clothes. One of those acts had been committed in a train and the many passengers who had witnessed it had failed to come to the victim's defence. Such acts stemmed from Japan's colonial stance towards Korea, a policy which sought to eliminate signs of Korean culture and was manifested in part through the denigration of Korean women's national costume. In 1994 there had been a resurgence of such incidents when the Japanese Government had announced its intention to protest against North Korea, which at the time was suspected of developing nuclear weapons.

35. The Special Rapporteur of the Sub-Commission should conduct an immediate investigation into those violations.

36. Ms. RAS-WORK (International Movement for Fraternal Union Among Races and Peoples - UFER), speaking on behalf of her organization and of the Inter-African Committee on Traditional Practices Affecting the Health of Women and Children (IAC), commended Ms. Warzazi for her report, which clearly described the extent and complexity of the problem.

37. In that regard, UFER welcomed resolution 53/117 in which the General Assembly had called upon all States to develop and implement national legislation and policies prohibiting traditional or customary practices affecting the health of women and girls. IAC wished to congratulate the Governments of the African countries which had taken measures to stop the practice of female genital mutilation and hoped that mechanisms of information and education would be put in place for effectively implementing those measures.

38. In May 1999, representatives of the West African States had met in Burkina Faso to adopt common strategies to reinforce the campaign against female genital mutilation. Those strategies were outlined in the Ouagadougou Declaration (cited in the annex to the Special Rapporteur's report (E/CN.4/Sub.2/1999/14)) which had been issued at the end of the meeting.

39. IAC was working closely with the Organization of African Unity (OAU) to adopt a more specific and regional instrument to protect children from harmful traditional practices.

40. The organizations she represented requested the Sub-Commission to support the holding of regional workshops and seminars in order to assess the outcome of previous such meetings and to mobilize public opinion. They furthermore proposed that the Office of the High Commissioner for Human Rights should include the issue of harmful traditional practices in its work programmes. Lastly, the Special Rapporteur on traditional practices should be given the opportunity to visit some of the affected countries in order to appreciate the problem and monitor progress made.

41. Ms. BOWDEN (Liberation) urged the countries which had signed the Beijing Declaration and Platform for Action to ensure their implementation.

42. In some parts of Pakistan, women were the victims of honour killings. A well-established custom in that country made it a right and duty of a family to put anyone - more often a woman - suspected of adultery to instant death. The law enforcers closed their eyes to or took a lenient view of such killings when the perpetrators claimed to have acted to save the family honour. In February 1997, some 20 persons, 18 of them women, had reportedly been killed in that way. Not one of those cases had been registered.

43. Domestic violence remained a common feature of family life around the world. It was estimated that in the United Kingdom one in four adult women were beaten by their partners and, despite the laws that existed, the problem was considered largely a private matter.

44. It was to be feared that child prostitution, which existed in many Asian countries, where organized gangs operated, would add to the number of AIDS victims. In the United Kingdom, too, there was growing concern at the increase in prostitution. Western countries were actually helping to fuel that problem by "importing" children from the developing world.

45. Liberation called upon the Sub-Commission to ask the Special Rapporteur on violence against women to undertake a visit to countries where violations of women's rights occurred and to make concrete recommendations to the Governments of those countries.

46. Ms. MITHAL SABRI JESSEN (General Arab Women Federation) said that, in the Arab countries, the organization she represented was working for the protection of women's rights as set forth notably by the Fourth World Conference on Women. In that regard, it should be recalled that the Shariah had confirmed the right of women to own property independently of their husbands. That was an important element in resisting discrimination.

47. In its efforts for the advancement of Arab women, the Federation was faced with major obstacles, including the very difficult living conditions of women especially in the Arab territories occupied by Israel and in Iraq. In that latter country, between 1990 and 1998 the number of newborn children weighing less than 2.5 kg had increased by 540 per cent and the number of deaths among children below the age of five had risen by 720 per cent because of poor nutrition due to the embargo. Furthermore, the disastrous economic situation had forced many women to give up working.

48. The General Arab Women Federation requested the international community and the Sub-Commission to redouble efforts to bring about the lifting of the sanctions imposed on Iraq over the past 10 years and to ensure respect for the human rights of the people of Iraq.

49. Ms. OUVIER (European Union of Public Relations) said that the United Nations Development Programme (UNDP), in its 1995 human development report, had concluded that in no society did women enjoy the same opportunities as men. Women performed two thirds of the world's work, received one tenth of its income and owned less than 1 per cent of its property. Gender bias was common even among the educated and enlightened.

50. Gender inequality in education was at the root of the inferiority that affected women at every stage of their lives. Two thirds of the world's 900 million illiterate people were women. Women and girls were thus caught in a vicious circle: illiterate mothers brought up illiterate daughters who were married off too early, lived in poverty, had many children and died prematurely. Education was the basic precondition for women's active participation in development.

51. In some States, discrimination against women was institutionalized. In Afghanistan, for example, women could not attend courses or exercise a professional activity. That rule applied even to a female breadwinner, thus endangering the lives of the children she had to support.

52. Globalization and the structural adjustment policies imposed by the International Monetary Fund (IMF) also had an adverse impact on women in developing countries with regard to education, nutrition and health.

53. The notion that the economic development level alone determined the role of women in decision-making was false. India, for example, had taken the bold step of reserving seats for women in local government and there were plans to do so in the legislature as well.

54. In order to eradicate all forms of discrimination on grounds of sex, States must ratify and, above all, implement the Convention on the Elimination of All Forms of Discrimination against Women, the International Covenant on Economic, Social and Cultural Rights and the Universal Declaration of Human Rights.

55. Mr. PARK said that the eradication of discrimination on the basis of sex was one of the greatest challenges currently facing the international community. Achieving that goal meant applying the principles set forth in the International Bill of Human Rights, and especially article 2 of the Universal Declaration of Human Rights, which provided that everyone was entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind, such as sex.

56. As the United Nations High Commissioner for Human Rights had declared in a speech delivered in January 1998 at the United Nations University in Tokyo, the Universal Declaration of Human Rights was becoming customary international law and was perfectly apt for addressing the complex issues of discrimination on the grounds of gender or on the basis of sexual orientation.

57. The Convention on the Elimination of All Forms of Discrimination against Women adopted by the General Assembly in 1979 and the Nairobi Forward-looking Strategies for the Advancement of Women adopted in 1985 were also important steps in efforts to combat discrimination against women.

58. The World Conference on Human Rights held in Vienna in 1993 had recalled that the basic rights of women and the girl child were an inalienable, integral and indivisible part of human rights. The 1995 Beijing Declaration and Platform for Action had stated the goal of the achievement of equality, development and peace for all women everywhere in the interests of humanity. By 1998, 70 per cent of the 189 countries which had participated in the Beijing Conference had formulated national action plans on women's rights. It was to be hoped that the special session of the General Assembly entitled "Women 2000: Gender equality, development and peace for the twenty-first century" would help to achieve progress regarding the commitments agreed upon at the Beijing Conference. It was furthermore gratifying to note that the Statute of the International Criminal Court adopted in Rome designated acts of rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization and other forms of sexual violence of comparable gravity as crimes against humanity and war crimes, and that the Commission on the Status of Women had finally adopted the optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women. The Sub-Commission had also contributed to the protection of women's rights through the efforts of its working groups, in particular the Working Group on Contemporary Forms of Slavery. A tribute should likewise be paid to Ms. Warzazi for her studies on traditional practices affecting the health of women and girl children.

59. Nevertheless, much still had to be done to ensure the full realization of women's rights. As the High Commissioner for Human Rights had stressed on the occasion of International Women's Day, on 8 March 1998, of the 1.3 billion people living in poverty, 70 per cent were women, the majority of the world's refugees were women, women and girl children were increasingly becoming victims of prostitution, and millions of girls were still subject to genital mutilation and women were regular victims of domestic violence.

60. The fact that serious violations of women's basic human rights were held to be justified by reference to culture, religion or tradition was also a matter of grave concern.

61. While safeguarding freedom of opinion and expression, the international community was actually condoning the use of the Internet and other new forms of communication technology for trafficking in human beings. Such non-action was another legitimate concern. In addition, more and more women losing their livelihoods as a result of the economic crisis were now compelled to work in the sex industry.

62. As had been pointed out by one African delegation, Governments were finding it increasingly difficult to provide for women's basic needs, especially in the fields of education, nutrition and health care, because of the debt burden and adverse structural adjustments.

63. To ensure the effective protection of women's rights, passing laws was not enough: such legislation also had to be enforced. Governments must therefore commit themselves unequivocally to meeting their obligations and to cooperating fully with the mechanisms of the United Nations.

64. It furthermore had to be recognized that in recent years an increasing number of non-governmental organizations had successfully conducted campaigns to enhance public awareness of women's potential to contribute to the well-being, stability and prosperity of their nations.

65. The necessary tools existed to ensure the full participation of, and equal opportunities for women at all levels in all societies. What was therefore needed was the political will to use them.

The meeting rose at 5 p.m.

UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1999/SR.16
23 August 1999

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PROMOTION AND PROTECTION
OF HUMAN RIGHTS

Fifty-first session

SUMMARY RECORD OF THE 16th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 16 August 1999, at 10 a.m.

Chairman: Mr. HATANO

later: Mr. BOSSHYT (Vice-Chairman)

later: Mr. HATANO (Chairman)

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GE.99-14885 (E)

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CONTEMPORARY FORMS OF SLAVERY

The meeting was called to order at 10 a.m.

THE IMPLEMENTATION OF HUMAN RIGHTS WITH REGARD TO WOMEN:

(a) TRADITIONAL PRACTICES AFFECTING THE HEALTH OF WOMEN AND THE GIRL CHILD

(b) THE ROLE AND EQUAL PARTICIPATION OF WOMEN IN DEVELOPMENT (continued) (agenda item 5) (E/CN.4/Sub.2/1999/13 and 14; E/CN.4/Sub.2/1999/NGO/5)

1. Ms. IBRAHIM (International Institute for Peace) said that it was regrettable that some Governments, having no satisfactory reply to issues raised by non-governmental organizations (NGOs), called their independence into question, one even going so far as to describe certain NGOs as "government owned", or "GONGOS". She requested the Sub-Commission to take note of that development which was an attack on human rights defenders.

2. The worth a society placed on women was an important indicator of its social development. Their rights could best be guaranteed by protecting their freedoms of choice, activity, and thought, which were often denied them as a result of traditional stereotypes and, in some cases, economic imperatives. Women themselves sometimes submitted to such impositions, partly under the influence of traditionalist peer pressures, and it was only where they had joined forces that they had succeeded in achieving recognition, economic independence and respect even in male-dominated societies.

3. In Pakistan, the punishment for women who tried to live their lives against the set pattern of traditions was death, and honour killing remained a convenient cover for all kinds of murder. A motion condemning violence against women, recently tabled in the Upper House of Parliament, had been almost unanimously rejected. In such circumstances, the only possibility for women was to combine in asserting their rights. For its part, the international community must use its influence to ensure that countries maintaining or enacting laws that discriminated against women were obliged to change and to give women the life of equality and dignity which was their due.

4. Ms. BHAN (Afro-Asian People's Solidarity Organization) said that economic development levels alone did not inevitably determine the role of women in decision-making and in productive sectors. In South Asia, there were many educated women working as executives, teachers and doctors as well as rural women working in the fields. Nor could the role of women be regarded as a mere function of the economic model followed by particular countries: prostitution abounded in the richest capitalist countries, while in economically-impoverished socialist Cuba women were active in every branch of endeavour, and India had taken the bold step of reserving seats for women in local self-government.

5. While poverty, illiteracy and discrimination against the girl child were prevalent in all the countries of South Asia, there was one country in particular which had compounded such problems by the imposition of a misguided

interpretation of religion which made women subservient to men. Not only did Pakistan itself practice extensive discrimination against women, but women in the Indian State of Jammu and Kashmir were victims of terrorism and fundamentalism propagated by Pakistan to destabilize that state.

6. She appealed to the international community to ostracize societies that discriminated against women through constitutional, institutional and legal means and that encouraged extremist, fundamentalist groups which degraded women. It should also encourage Governments and NGOs to develop educational and awareness-creation programmes to discredit centuries-old customs and traditions that militated against women becoming full partners in the development process.

7. Ms. GANDHI (World Federation of Trade Unions) said that there was a growing acceptance throughout the world of the importance of basic human rights which contrasted starkly with the persisting discrimination against women - an institutionalized phenomenon which, although exacerbated by poverty, was not caused by it. Mr. Eide's study showed that women often began their pregnancies in an undernourished condition, which could affect both the development of their babies and their own future health. In poor families, it was the males who received the first share of scanty resources, and girls and women were the chief victims not only of malnutrition but of every possible deprivation.

8. Bias against the girl child was an essential characteristic of patriarchal societies, irrespective of class and status. Familial violence, a major form of offence against the human rights of women, was found in almost all countries, irrespective of their economic development. Women's traditional roles were often enshrined in secular and religious laws, which impeded their access to non-traditional roles.

9. Women were also the primary victims of the violation of the right to education, denial of which, as pointed out by Mr. Mehedi, deprived individuals of their dignity and the means of achieving recognition. Girls represented a much higher proportion than boys of the children not receiving schooling, and the majority of those so deprived were, not surprisingly, concentrated in sub-Saharan Africa, South-East Asia and Latin America.

10. Discrimination against women was further exacerbated when States introduced legislation excluding women from most forms of education and employment, as was notoriously the case in Taliban-dominated Afghanistan.

11. Women's talents represented a vast and valuable human resource, which the world could not afford to waste. Even poor, illiterate village women possessed a rich legacy of skills and wisdom, which all too often went to waste. A recent example was the outstanding success in film-making achieved by a group of illiterate women from a village in Andhra Pradesh who had received training in the relevant technologies. Women had a great zest for life and required only educational opportunities and the support of a sensitive and vigilant civil society, backed by a fair and open-minded judiciary. Such conditions could, however, prevail only in democratic societies, where there was freedom of speech.

12. Ms. I'LOEM (World Federation of Methodist and Uniting Church Women), speaking also as President of the NGO Committee on the Status of Women, said that women had become active agents in the pursuit of sustainable development, which had been a central theme of the world conferences of the 1990s. It had been recognized that women, who bore the brunt of unregulated globalization and economic restructuring, could be central pillars in the construction of a more equitable system.

13. Any proactive gender policy must include: equal access for girls and women to education and training; more and better jobs for women as well as men; real gender equality in the workplace; elimination of discrimination and gender stereotypes; and, above all, elimination of violence against women. According to the latest Human Development Report, between one quarter and a half of all women had suffered physical abuse by an intimate partner, and they were subjected to rape and sexual slavery during armed conflicts. She commended Ms. MacDougall on her excellent study on the latter subject (E/CN.4/Sub.2/1998/13) and Mr. Weissbrodt on bringing a gender perspective into his study on the rights of non-citizens (E/CN.4/Sub.2/1999/7 and Add.1).

14. The NGO community was still awaiting a positive follow-up to Ms. Warzazi's excellent reports on traditional practices affecting the health of women and the girl child. A recent study by the two working groups on the girl child showed that, while there had been some progress regarding education since the Beijing Conference, there had also been an enormous increase in all forms of violence, often culturally condoned. The NGOs looked to the members of the Sub-Commission to provide guidance in overcoming entrenched views of cultures as essentially and irretrievably static. A culture which excluded the skills and energies of half its members had a permanent roadblock to its development.

15. Mr. OLOKA-ONYANGO said that a critical consideration of the issue of self-determination indicated that the problems of gender discrimination and sexual exploitation were intrinsically linked to the unperceived sexist and androcentric structures of international human rights law, and to the notion of statehood, as primarily expressed in the 1993 Montevideo Convention on the Rights and Duties of States. The traditional framework for the discussion of self-determination excluded a variety of groups that could well lay claim to that right.

16. It had been amply demonstrated that, in most countries, the State was hostile to women and their autonomous existence and operation. Rape, for example, had in many jurisdictions originated as an offence against property and had evolved into an offence against "morality" - once again in the context of male moral claims and opinions. Only subsequently had it come to be considered as an offence against the physical person of the woman. The traditional conceptual framework, which did not consider women to be the subject of international law, had made it possible for the so-called "comfort women" in Japan to be violated almost without arousing outrage or legal response. It was only the horrors of recent years, particularly in Bosnia and Rwanda, which had put rape on the international agenda.

17. The oppression of women within groups had never been considered relevant to the validity of the pursuit and enjoyment of self-determination by such

groups. Similarly, theories of statehood viewed the State as an essentially monolithic entity, ignoring the question whether it was actually representative of the population as a whole. In his view, a revision of traditional concepts of international law would reveal the necessity of: recognizing women as specific subjects of international law; recognizing their right to participate directly in the formulation of international and regional norms; and providing for direct recourse to global and regional mechanisms to protect and enforce their rights.

18. The "ghettoization" of women's rights was also, to some extent, visible in the machinery of the United Nations system, including the Sub-Commission. It was manifested in the reservations by States to the provisions of the Convention on the Elimination of All Forms of Discrimination Against Women - the highest number to any international human rights treaty - and in the attention paid by the system to women's rights, as for example in the agenda of the Sub-Commission, where they were specifically mentioned only in item 5 and, to some extent, in item 6. The Sub-Commission should ensure that those rights were "mainstreamed" into each of its agenda items.

19. Ms. PARKER (International Educational Development, Inc.) said she was concerned at the growing infringement of women's rights in the context of a scientific challenge to the prevailing HIV/AIDS dogma. A number of states in the United States of America were forcing highly toxic drugs on infants and seeking to suppress breastfeeding of babies whose mothers tested HIV positive. She quoted an example of a mother being forced to allow her infant to receive treatment with the highly toxic AZT drug and not to breastfeed him under threat by the State of Oregon of losing custody. A similar case was before the courts in the United Kingdom. She accepted that there were circumstances in which maternal rights might be abrogated in the interests of the child but, where there was genuine controversy about a treatment as in the cases she had described, women must have the right to choose.

20. Turning to the situation of women in armed conflicts, she said that her organization, while commending the Sub-Commission for taking up the issue of war rape, believed that it should also take into account the wider issue of what amounted to a contemporary form of slavery. An example was provided by the war in Kashmir, where the presence of the illegal occupying Indian military forces, numbering between 600 and 700 thousand male personnel, made widespread rape inevitable. Many women also suffered because their daughters or mothers were raped, or by being left as war widows, and all suffered from severe shortages of medical supplies, food and other basic necessities.

21. While the status of Kashmir remained undetermined by the long pending United Nations-mandated plebiscite, the appeal of the people to the international community was rebuffed by India which represented the issue as a purely bilateral one. In the meantime, the people of Kashmir and their unique culture were left to destruction by the Indian forces. She supported the Sub-Commission's initiative to address country situations under the current agenda item, and urged that Kashmir should be included in that initiative.

22. Ms. MILAD (Association de Défense des Tunisiens à l'Etranger) said that Tunisia, a Muslim country, had resolutely opted for the promotion of women's rights and to that end had introduced a number of legislative and

institutional reforms that were consonant with Islamic principles. The Constitution recognized the equal right to stand for election of all voters whose father or mother was a Tunisian national. The Personal Status Code had been amended to promote a genuine partnership between the spouses in managing child and family affairs. The Labour Code prohibited discrimination on grounds of sex. Under the Nationality Code, the mother transmitted her nationality to children born of a foreign father. A Ministry of Women and the Family, a National Council for Women and a National Observatory for Women had been established. As a result of compulsory schooling from the ages of 6 to 16, the enrolment ratio for girls was 99 per cent. Almost half of third-level students were female. The mother and child health system had raised women's life expectancy and women were making rapid headway in the workforce.

23. On the other hand, immigrant women in certain European countries continued to suffer discrimination in employment, wages and in terms of family reunion. She hoped that the Committee on the Elimination of Discrimination against Women would pay special attention to the plight of immigrant women and urged the Sub-Commission to take vigorous steps to implement its resolution 1995/26 on the human rights of women and the girl child.

24. She welcomed the decision by the Sub-Commission to treat rape and similar practices in time of war as analogous to slavery and supported Sub-Commission resolution 1998/18, which recommended the publication by the United Nations of the report by Ms. McDougall on systematic rape, sexual slavery and slavery-like practices during periods of armed conflict (E/CN.4/Sub.2/1998/13) and its wide distribution by the Office of the High Commissioner for Human Rights.

25. Ms. ELAKAIM (Asian Buddhist Conference for Peace) said that, while the overall situation in the Chittagong Hill Tracts of Bangladesh had improved since the signing of the Peace Accord in December 1997, the presence of military personnel and action by Government-backed anti-Accord elements had led to continuing violations of the rights of Jumma women, including rape and abduction. The perpetrators were in some cases police officers. Owing to collusion between the police force, the army and settlers from other parts of Bangladesh, action was seldom taken to bring the culprits to justice. Forced marriages with settlers were another problem faced by Jumma women.

26. Over 20,000 people in Indian Kashmir, including women and young people, had been detained without trial. Women and girls had been molested and sexually harassed by Indian security personnel and State-sponsored counter-militants. According to the Indian Women Fact-Finding Commission, women suffered from extreme anxiety owing to their constant sense of insecurity.

27. Low-caste Dalit women and minor girls were frequently subjected to sexual abuse by middle- and high-caste groups and women were singled out in attacks aimed at suppressing the Dalit reform movement. Other forms of violence against women in India were dowry deaths, bride burning and female infanticide. The police and other State agencies had in some cases actively participated in and abetted caste and communal violence. Many cases of rape, torture and other forms of inhumane punishment of women in police custody had been reported by Indian and international human rights organizations.

28. The Commission's Special Rapporteur on violence against women, its causes and consequences had not yet gained entry to India and Bangladesh to investigate the situation of Jumma, Kashmiri and Dalit women. It was essential that she should examine the plight of women victims in locations other than the most obvious conflict areas.

29. Ms. GUTIERREZ ROMERO (Latin American Human Rights Association) said that indigenous women were often doubly disadvantaged by the racially discriminatory and male chauvinist attitudes of the dominant society and by customs and practices within indigenous communities. Indigenous women in Mexico had enormous difficulty in obtaining access to services which, under the law, were theoretically available to all citizens. Being indigenous, female and poor, they suffered threefold oppression.

30. Military operations, ostensibly to protect local communities, were conducted in the early hours of the morning. Hundreds of soldiers, policemen and armed groups, equipped with tanks and sophisticated matériel, announced their arrival by means of volleys of gunfire. The results of such operations were always the same: stolen animals, destroyed crops, rape, torture, death, summary executions, forced disappearances, arbitrary detention.

31. In the second of two incidents she described, two indigenous women, victims of rape by members of the armed forces, had been ridiculed by the authorities when they reported the incident. It was hardly surprising, therefore, that the indigenous women of Mexico were reduced to tears of rage and impotence. Any hope they had of playing a role, on an equal footing with men, in the development of their communities was being prevented by institutionalized violence.

32. The aspirations of the indigenous women of Mexico were reflected in the San Andrés agreements whose implementation would be a first step in the right direction. She urged the Sub-Commission to support their cause.

33. Ms. AMALIA (Netherlands Organization for International Development Cooperation) said that women's health in South Central Timor, was adversely affected by the requirement, following traditional circumcision (sifon mapulu), for the circumcised male to have intercourse with a woman within seven to eight days. Female genital mutilation was also practised in rural areas of Indonesia. A sharp piece of bamboo, a knife or a razor blade was used to perform the operation and bleeding was treated with the sap of a tree and betel leaves. Lack of information on health matters could have fatal consequences in such cases.

34. Although Indonesia had ratified the Convention on the Elimination of All Forms of Discrimination against Women, traditional practices violated women's reproductive rights, their right to information and their freedom of expression. The Government had a duty to disseminate information through local health, education and cultural authorities. Religious leaders also had an important role to play. The Sub-Commission should urge the Indonesian Government to assume full responsibility for the traditional medical practices that had a detrimental effect on women and to involve women in national policy-making.

35. Although the equality of men and women was recognized by the Constitution, inequality persisted in terms of marriageable age, wages and health insurance. In that respect, the new regime under President Habibie had followed the same path as its predecessor. Moreover, the mother and child health programme was based on the assumption that the mother bore sole responsibility for her children's health.

36. Women were poorly represented in the public sector, especially in strategic positions. They would account for only 10 per cent of members of the new legislature being elected in 1999, although they represented more than 50 per cent of the electorate. Women's organizations were established by the Government and political parties as a means of vote-catching but not to empower women.

37. Ms. DIOP (African Commission of Health and Human Rights Promoters) said that, in Sierra Leone, some 100,000 civilians, including children, had been mutilated in an orgy of wanton violence but the Lomé Peace Accord granted a full pardon to all the parties involved. Even major perpetrators of human rights violations could not be held legally responsible and former insurgents who had committed crimes against humanity could hold positions of authority in the new Government.

38. The South African Government had introduced affirmative action measures that would accord women 30 per cent of seats in the General Assembly but very little had been done in legal terms to address the issue of rape, of which there were currently 1 million cases a year.

39. The abduction and rape of women with a view to forced marriage was a common practice in Ethiopian villages. A 14-year-old girl had been tried for murder because she shot the local gang leader who had raped her. Similar traditions of violence and violations of women's rights were rampant in many other African States.

40. She urged the Sub-Commission: to call for a visit to Sierra Leone by the Commission's Special Rapporteur on violence against women; to investigate the human rights violations there and ensure that major human rights offenders were prosecuted; to promote the development of the skills needed by African women to mainstream gender issues, to lobby national leaders and to take part in the decision-making process; and to support a campaign to make African men aware of the need to end violence against women.

41. Ms. BAILEY-WIEBECKE (Pax Romana) said that human rights advocates must develop strategies to tackle the feminization of poverty. The international human rights system seemed to be unable to address the threat to human rights posed by globalization. Women often bore a disproportionate share of the burden of structural adjustment programmes and the downsizing of the public sector. They were likely to take care of sick, homeless or mentally ill family or community members when the State divested itself of those responsibilities.

42. In many parts of the world, rural women were fighting to protect ways of life that were under threat from the trade and financial liberalization promoted by the World Trade Organization (WTO). Economic liberalization

increased inequality and many women opposed the exploitative and divisive trends fostered by the precepts of competition, comparative advantage and the international division of labour. In a world governed by power relationships, they were sceptical about the claims that the sacrifices inflicted by economic restructuring were inevitable.

43. In Ethiopia, for example, women had been particularly badly hit by the casualization of labour, the decline in social welfare and the rising cost of consumer goods. Growing corporate control over food systems was undermining women's role as food producers. Under the current international trade regime, their role was being reduced to that of suppliers of cheap labour and consumers of foreign goods.

44. Possible remedies included the upgrading of technology in industrial sectors with a large female workforce, training of women to occupy middle and top managerial posts, and development of entrepreneurship among women.

45. Her organization urged the Sub-Commission: to create a new sub-item entitled "Women and globalization"; to appoint a special rapporteur to study the human rights implications of globalization for women, focusing on the impact of the external debt on women in Africa and a possible mechanism to monitor the impact of debt cancellation; to encourage the human rights treaty monitoring bodies to mainstream women in the review process; and to continue studying the feminization of poverty.

46. Ms. TANGGAHMA (Survival International Ltd.) said that the Commission's Special Rapporteur on violence against women, its causes and consequences had stated in her report to the Commission at its fifty-fifth session (E/CN.4/1999/68/Add.3) that the Indonesian security forces had used rape as an instrument of torture and intimidation in West Papua (Irian Jaya), Aceh and East Timor, classified as military operation areas, prior to May 1998. She had also reported allegations of serious abuses after that date and called for an impartial investigation into the use of rape by the military in Irian Jaya, noting that no perpetrators had been brought to trial, that the victims had not been compensated and that abuses continued to occur under the new regime.

47. The Sub-Commission should call on the Indonesian Government to implement the Special Rapporteur's recommendations, which included the possible establishment of a truth and reconciliation process for the victims of State violence before May 1998, a national campaign of zero tolerance of the use of terror against members of civil society, and unrestricted access to all parts of the country for independent human rights monitors.

48. A report by two reputable NGOs published in May 1999 documented in detail cases of rape, sexual slavery and other sexual violence by the Indonesian military against women and girls in West Papua. The military had also forced women to offer their services to visiting soldiers from Papua New Guinea. The Coalition of Women against Violence and the Papuan Working Group (KEW) had described their conduct as a serious violation of the Convention on the Elimination of All Forms of Discrimination against Women, to which Indonesia was a party.

49. She called on the Sub-Commission to consider ways of implementing Commission resolution 1999/40, which urged Governments to address the root factors that encouraged trafficking in women and girls for prostitution, to criminalize such trafficking and to penalize offenders, including intermediaries, whether the offence was committed in their own country or abroad.

50. Mr. HUSSAIN (Observer for Iraq) said that, despite the difficulties posed by the imposition of an economic embargo, his Government, in collaboration with the United Nations Development Programme (UNDP), had implemented a number of important programmes aimed at ending poverty among women. In 1988, laws had been promulgated to eradicate prostitution and violence against women. Women currently occupied a number of high-level government posts and were entitled to stand as candidates in national and municipal elections. Seventeen women were members of the National Council. Women also enjoyed equal employment rights.

51. The Convention on the Elimination of All Forms of Discrimination against Women had been fully implemented, and women's status generally had greatly improved, in spite of the economic sanctions imposed, which had resulted in food and medicine shortages and increased infant and maternal mortality and had driven many mothers to seek employment outside the home in order to make ends meet.

52. It was regrettable that some countries were impeding implementation of women's rights through oppressive political measures. In line with article 45 of the 1995 Beijing Declaration and Platform for Action, the international community must shoulder its responsibilities by ending the embargo against Iraq.

53. Ms. PEREZ DUARTE y NORCÑA (Observer for Mexico) said that, within the general framework of its National Programme on women's rights, her Government had implemented a Plan of Action to create more and better jobs for women. It had also established a national technical cooperation network to provide support for rural women in a number of fields. In January 1999, it had set up a national programme to combat violence in the family, aimed at familiarizing the judiciary with the instruments available to them in the fight against such violence.

54. Thanks to concerted action by the Government and civil society, women were playing an active role in Mexico's socio-economic development, the transmission of cultural values, and the consolidation of democracy. While the process was not yet complete, the political will to secure equality between women and men definitely existed.

55. Mr. FERRER RODRIGUEZ (Observer for Cuba) said that, on the eve of a new millennium, the situation of women continued to be difficult, especially in developing countries affected by the external debt problem, structural adjustment policies and the adverse effects of globalization. Women currently made up 70 per cent of the world's poor, and unemployment among women was between 10 and 40 per cent higher than among men. Though women constituted over 50 per cent of the workforce, their share of earned income was only 33 per cent. The situation of rural women was more serious still,

with 50 per cent living in absolute poverty. Discrimination against women was even more apparent in education: two thirds of the world's adult illiterates were women.

56. The solution to that problem lay in a reallocation of resources to meet the targets set at the Fourth World Conference on Women. Over the past 40 years, Cuba had shown that a different approach was possible. Women made up 42.9 per cent of its civilian labour force, and accounted for 66.6 per cent of intermediate and higher-level technical and professional workers, 31 per cent of managerial posts, 27.6 per cent of members of parliament, 60 per cent of university students and 55.9 per cent of higher education graduates. The maternal mortality rate was only 2.2 per 1,000. All those achievements had been attained in the teeth of unilateral coercive action against Cuba. In the framework of its cooperation with United Nations human rights mechanisms, his Government had invited the Special Rapporteur on violence against women to visit Cuba. That visit had taken place in June 1999, and the Special Rapporteur had had the opportunity to visit women's prisons and to interview female prisoners.

57. Mr. HASSAN (Observer for Pakistan) said that Pakistan had ratified the Convention on the Elimination of All Forms of Discrimination against Women in 1996. Since then the existing setup had been rationalized so as to ensure a more focused approach to promoting women's rights. The Federal Ministry of Women's Development had a vigorous tradition of involving NGOs in its initiatives, and Pakistan's first report to the Committee on the Elimination of Discrimination against Women, currently nearing completion, was a fruit of that collaboration.

58. With a view to ensuring adequate representation for women in policy-making organs, a bill had been drafted to restore the reserved seats for women in the legislature. In addition to the 20 reserved seats in a legislature comprising 237 members, women would henceforth be free to contest open seats in elections to the National Assembly.

59. In response to concerns that women were susceptible to abuse in ordinary police stations, special police stations for women had been established in five major cities. The Code of Criminal Procedure also prohibited police from entering a house occupied by a woman; an accused woman could be arrested or searched only by a woman; women could not be detained in a police station overnight; and women accused of an offence punishable with death or imprisonment for life could be released on bail. A scheme to set up legal aid centres for women had also been initiated, and a number of crisis centres for women in distress had been set up throughout the country.

60. Gender stereotyping was avoided in educational programmes, curricula and textbooks, and places were reserved for women in medical, agricultural, law and engineering colleges and universities. Efforts were being made to increase female literacy rates and overcome the obstacles posed by the scarcity of resources.

61. Women made up 12.8 per cent of the labour force in Pakistan, and the Constitution prohibited discrimination in employment on grounds of sex. The Government was an equal opportunity employer; however, since 1989 it had

maintained a 5 per cent quota for women in public service and the judicial services. There was no gender discrimination in social security arrangements, and women were entitled to three months' paid maternity leave at every confinement and had the possibility of unpaid leave for up to five years.

62. The situation in the private sector was less satisfactory. However, the Government was working to ensure the empowerment of women through employment, and had established a special bank to cater for women and provide prospective female entrepreneurs with easy credit.

63. Ms. HAGNUR (Observer for the Sudan) said that her country's cultural and religious traditions protected the status of women, and that its successive constitutions emphasized equal rights and obligations without discrimination on grounds of sex. Sudanese women had enjoyed full political rights since 1964, and more than 20 women were currently members of the National Assembly. Five women were currently members of the Supreme Court, and women also occupied senior positions in government, the universities, the judiciary and diplomacy. Sudanese women had enjoyed the right to education since 1907, and there were currently more female than male students enrolled in the universities. The law provided for full financial independence and property rights for women. Women also played an active role in business.

64. A comprehensive national strategy provided for measures to combat harmful traditional practices, which were also an offence under article 138 of the 1991 Criminal Law Act. The Public Health Act and medical ethical principles, codes of conduct and regulations prohibited unnecessary surgical operations. Several organizations, among them the Sudan National Committee on Traditional Practices Affecting the Health of Women and Children (SNCTP), were involved in the eradication of harmful practices. In his report to the fifty-fifth session of the Commission, the Special Rapporteur on the situation of human rights in the Sudan had commended the exemplary work undertaken by that NGO, and had called for financial support to ensure the successful continuation of its project.

65. Women had access to public posts, and enjoyed the right to equal payment for equal work. They were entitled to eight weeks' paid maternity leave, and to unpaid leave for up to seven years. Working mothers were allowed one hour off every day for two years in which to breastfeed their children. Lastly, the 1998 Sudanese Training Act ensured equal training opportunities for men and women.

66. Mr. EIDE said that the question of the rights of women had to be seen as a crucial facet of every topic dealt with by the Sub-Commission. In the introduction to his updated study on the right to food (E/CN.4/Sub.2/1999/12), he had pointed out the dramatic consequences of discrimination against women. Those who continued to discriminate against women were doing their societies, and the world as a whole, a tremendous disservice. Taliban was the extreme case: its policies would set back its country's development for decades, or even generations.

ORGANIZATION OF WORK (agenda item 1) (continued)

(c) METHODS OF WORK OF THE SUB-COMMISSION (continued)

67. The CHAIRMAN reminded members that the Commission had repeatedly instructed the Sub-Commission to reduce the number of resolutions and decisions it adopted and, more particularly, those it recommended to the Commission. At its fiftieth session, the Sub-Commission had adopted only 30 resolutions and 15 decisions, and had recommended only one draft resolution and eight draft decisions for adoption by the Commission. He hoped that the Sub-Commission would continue that self-restraint at its current session.

CONTEMPORARY FORMS OF SLAVERY (agenda item 6) (E/CN.4/Sub.2/1999/15-17; E/CN.4/Sub.2/1999/NGO/7 and 15)

68. Mrs. WARZAZI (Chairperson-Rapporteur of the Working Group on Contemporary Forms of Slavery), introducing the report of the Working Group on its twenty-fourth session (E/CN.4/Sub.2/1999/17), said that the session had been marked by the increased participation of NGOs and government observers. As agreed at its twenty-third session, the Working Group had accorded priority to consideration of the question of traffic in persons and exploitation of the prostitution of others. The subject had been taken up by the Working Group following two days of consultations between NGOs, the specialized agencies and the members of the Working Group. The recommendations of the NGO consultation appeared as annex II to the report.

69. At the request of the Working Group, which feared that the international instruments on slavery did not cover all the contemporary forms, Mr. Weissbrodt and Anti-Slavery International had prepared a detailed study of those instruments. A summary of that study was available in the three working languages (E/CN.4/Sub.2/AC.2/1999/6) and the complete version was available in English only (E/CN.4/Sub.2/AC.2/1999/CRP.1).

70. Various organizations had again referred to slavery in the Sudan, and the observer for that country had been able to provide some information. The situation of domestic and migrant workers was still a cause of some concern and remained one of the Working Group's priorities. Speakers had welcomed the recent adoption by the International Labour Organization (ILO) of a convention on the worst forms of child labour, but one of its provisions had been a source of concern to a number of participants. The ILO representatives had been able to reply to their questions.

71. As for the traffic in human organs and tissues, the Working Group had received some alarming information which had reinforced its determination to keep the matter under review.

72. The issue of Japanese military sexual slavery during the Second World War had once again been raised and, although the Working Group had spared no effort in the past to bring the parties together and pave the way for a just and equitable solution, the time had come to concentrate on the serious problems and large-scale abuse of women in contemporary conflicts. The

Working Group had also been given some alarming information on traffic in children for purposes of sexual and other exploitation. She appealed to NGOs, therefore, to concentrate on current situations on the international human rights agenda.

73. As for the agenda for its twenty-fifth session, the Working Group had decided to give priority consideration to the question of bonded labour and debt bondage and to continue its consideration of the illegal activities of certain religious and other sects, while regretting the paucity of information received on the topic.

74. The Working Group had invited the Chairperson of the Commission on Human Rights to attend one of its meetings.

75. Lastly, she thanked the Governments and individuals which had contributed to the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery, and appealed to them to continue to do so, since the Fund's activities were extremely important for the Working Group.

76. Mr. GUISSÉ welcomed the fact that the Working Group had expanded its work to cover all continents. Education systems and practices for bringing up children differed from one country to another and, in Africa, where the traditional emphasis was on the group rather than on the individual, children were educated in such a way as to protect them as far as possible from the harmful effects of an imported, colonizing culture which was basically selfish. The Working Group should consider the negative consequences of such influences on the children of traditional cultures, which should not be cast aside in favour of imported systems.

77. Turning to contemporary forms of slavery, he said that one particularly pernicious form was that in which groups of individuals unscrupulously and odiously exploited the labour of workers, mostly from Africa, in terms of the work they were expected to do, the wages they were paid and the treatment they received. Their children were left very much to their own devices, and often fell into criminality. The Working Group should bear such considerations in mind with a view to enabling the cultures and traditions of Africa and Asia to become part of the system of protection of women and children.

78. Women in traditional, especially Muslim, countries had never been subject to trafficking such as the white slave trade. Such trafficking was cracked down upon by the Islamic religious system and by the legal system based on Islamic law.

79. Mr. Bossuyt, Vice-Chairman, took the Chair.

80. Ms. AN HYANG SU (Liberation) said that the Government of Japan had acknowledged the official involvement of its war-time Government and military in establishing, maintaining and supervising the so-called "comfort women", or military sexual slavery, system, and had admitted that many of the women had been recruited by deception and force. However, it had failed to admit its legal responsibility. There were still a number of official documents in the

National Archives of Japan which covered the recruitment of women who were forced into sexual slavery. Those documents included the records and related materials of war crime tribunals held by the allied forces after the end of the war.

81. While the documents were currently in the possession of the Japanese Ministry of Justice, the originals or photocopies were to be found in the archives of the United States of America, Australia and the United Kingdom. The Governments of those countries and the NGOs active in them should undertake research and provide information to the Special Rapporteur on systematic rape, sexual slavery and slavery-like practices during armed conflict, including internal armed conflict. History was repeating itself in the Sudan, Sri Lanka and East Timor, and the protection of women against sexual slavery and sexual violence in current and future armed conflicts depended on what was done to end the impunity for Japanese war crimes.

82. Her organization strongly requested the Sub-Commission to adopt measures to implement the recommendations made by the Special Rapporteur in her final report (E/CN.4/Sub.2/1998/13) and encourage the Government of Japan to open its archives to historians and to the general public.

83. Mr. SAITO (International Association of Democratic Lawyers) said that, for 15 years following its invasion of north-eastern China, Japan had advanced throughout the Asia Pacific region carrying out atrocities which had included murder, rape, pillage and arson, the victims of which had numbered more than 23 million. In 1925, Japan had enacted its Public Order Maintenance Law under which those opposed to the war were arrested, imprisoned, and even tortured.

84. After Japan's unconditional surrender in August 1945, the Public Order Maintenance Law had been abolished. In 1968 - the year in which the General Assembly of the United Nations had adopted the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity - the League of Public Order Maintenance Law Victims had been formed. For the past 26 years, the League had been petitioning the Japanese Diet demanding that the Japanese Government apologize to and compensate the victims. The Japan Bar Association had also emphasized the priority of providing reparations to the victims of the Public Order Maintenance Law.

85. However, no apology had been forthcoming and no compensation had been paid, and the victims were becoming fewer in number with every passing year. His association earnestly requested the Sub-Commission to instruct the Special Rapporteur on systematic rape, sexual slavery and slavery-like practices during armed conflict, including internal conflict, to investigate the matter immediately and urge the Government of Japan to apologize to and compensate the victims of the Public Order Maintenance Law.

86. Mr. NAWAZ (Afro-Asian People's Solidarity Organization) said that rapid population growth and social and cultural norms that discriminated between male and female children, especially in South Asia, had created an environment in which children were abused and atrocities committed against them, including their sale for the purpose of begging or prostitution. Despite international commitments and conventions, such child abuse continued and the time had come to impose exemplary punishment for that heinous crime.

87. The number of working children in the world had yet to be counted, for it was beyond the reach of conventional labour statistics, but nearly 250 million children between the ages of 5 and 14 were working full-time or part-time in developing countries, 61 per cent of them in Asia. A new form of child abuse was the employment of children and adolescents as weapons in insurgency and proxy wars. Traumatized children passed on their traumas and, if the evil afflicting contemporary children was ignored, future generations would wonder why childhood had been allowed to become a commercial commodity. It was the demand for the sexual services of children that needed to be tackled, and the only remedy was severe punishment of their abusers.

88. Mr. HATANO resumed the Chair.

89. Mr. LAL AMATYA (World Federation of Trade Unions) said that many children in developing countries were being compelled to become breadwinners for their families and to forego a normal childhood. The most contemptible forms which that exploitation took were child labour, particularly bonded labour, and child prostitution. In addition, the resurgence of religious fundamentalism, notably in Pakistan, had created a new form of bondage - that of the mind - in which schools run by fundamentalists imparted a form of teaching quite divorced from modern educational precepts.

90. The evils of child labour and child prostitution were encouraged by people belonging to what should be more enlightened countries. In a new form of colonization, the tantalizing prospects of easy earnings held out to poorly educated girls and boys had created a pool of child prostitutes in South Asia; their patrons came mostly from the affluent societies. In Pakistan, rape and violence against young girls was common, as Christian and Hindu girls were converted to Islam. A less noticeable form of exploitation, although tantamount to prostitution, was the marriage of young girls to wealthy but far older men against their wishes.

91. Apart from economic factors, one of the main reasons for the proliferation of the phenomena of the sale of children, child prostitution and child pornography was the weakening of family ties, resulting from attempts to jump-start the process of modernization without giving societies time to evolve to the point where their people understood and could cope with the social consequences of development and industrialization. Further efforts should be made to persuade the member States to take effective action to reduce child trafficking and child prostitution and their action needed to be monitored at two-year intervals.

The meeting rose at 1 p.m.

UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1999/SR.17
15 November 1999

ENGLISH
Original: FRE.CH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PROMOTION AND PROTECTION
OF HUMAN RIGHTS

Fifty-first session

SUMMARY RECORD OF THE 17th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 16 August 1999, at 3 p.m.

Chairman: Mr. HATANO

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HUMAN RIGHTS OF INDIGENOUS PEOPLES

(a) INDIGENOUS PEOPLES AND THEIR RELATIONSHIP TO LAND

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GE.99-14596 (E)

The meeting was called to order at 3 p.m.

CONTEMPORARY FORMS OF SLAVERY (agenda item 6) (continued)
(E/CN.4/Sub.2/1999/15, 16 and 17; E/CN.4/Sub.2/1999/NGO/7 and 15; update of the final report of the Special Rapporteur on systematic rape, sexual slavery and slavery-like practices during armed conflict, document without a symbol in English only)

1. Mr. YOSHIDA (Asian Women's Human Rights Council) said that despite the recommendations by the Special Rapporteur on violence against women, Ms. Coomaraswamy, in her 1998 report to the Commission on Human Rights (E/CN.4/1998/54/Add.1), the Japanese authorities had not given the question of the "comfort women" its due place in school textbooks. The Ministry of Education carefully screened the context of textbooks and ensured that they did not go into details about the inter-war period.

2. Furthermore, the "Association for the Authentic History Textbook", with its approximately 9,200 revisionists, was intending to publish its own textbook of Japanese history, which would contain no reference to the "comfort women". According to the revisionists, these women had merely been prostitutes who currently wanted only money.

3. Ms. YASUHARA (Asian Women's Human Rights Council), following on from the previous speaker, said that following the capitulation of Japan in 1945, a large number of prisoners of war, approximately 600,000 Japanese and 13,000 Koreans, mainly rank-and-file soldiers, had been taken by the Soviet Union to Siberia and Mongolia and enrolled as forced labour. Documents discovered in the Soviet archives seemed to indicate that the soldiers had been sold by their leaders as part of war reparation and that there were civilians among them, including women. Approximately 10 per cent were said to have perished from the working conditions and the cold. The Government of Japan refused to pay the unpaid wages of the prisoners repatriated from Siberia although it had paid up in full the wages of prisoners of war under the control of the allied forces.

4. Ms. McDOUGALL (Special Rapporteur on systematic rape, sexual slavery and slavery-like practices during armed conflict) recalled that in the final report she had presented to the Sub-Commission in 1998 (E/CN.4/Sub.2/1998/13), she had concluded that systematic rape, sexual slavery and slavery-like practices during armed conflict constituted violations of human rights, humanitarian and international criminal law and as such must be properly investigated, the perpetrators brought to justice and the victims given criminal and civil redress, including compensation where appropriate. The report also concluded that even in the absence of armed conflict there were circumstances in which sexual violence, including rape, could be prosecuted on the same grounds as slavery, crimes against humanity, genocide or torture.

5. It was clearly important to continue to focus on the use of sexual violence as a weapon of war, as evidenced by atrocities committed almost everywhere in the world, including Afghanistan, Algeria, Burma, Burundi, Colombia, the Democratic Republic of the Congo, Indonesia, Kosovo, Liberia,

Sierra Leone, Sri Lanka, Uganda and elsewhere. While the report placed special emphasis on sexual violence against women, the same violence against men and boys was equally serious.

6. Since the Preparatory Commission on the Establishment of an International Criminal Court was meeting at that moment in New York to consider the question of the elements of crimes on which the Court would have to rule, she hoped that account would be taken of the principles and recommendations contained in her final report and its update. The two documents were in the first place a call for an effective response to sexual violence during war. They emphasized that rape and other forms of sexual abuse were crimes of violence which, under certain circumstances, could be described as slavery, crimes against humanity, genocide, grave breaches of the Geneva Conventions, war crimes or torture. Their intention was also to reinforce the legal framework for the prosecution of those crimes with a view to an application of international law which would take the special situation of women more into account.

7. During the conflict in Sierra Leone, rape and sexual slavery were commonplace, as she had realized during a mission to the country on interviewing teenage girls who had been subjected to such practices. In Kosovo, Serb soldiers had also been guilty of numerous acts of sexual violence, including rape, against ethnic Albanian women and girls. In Uganda, it was estimated that the rebels of the Lord's Resistance Army, supported by Sudan, had abducted some 10,000 children, with girls as young as 12 given to rebel commanders as "wives". That practice in fact constituted sexual slavery since the victims did not have the freedom to leave or to refuse the sham "marriage".

8. The most effective deterrent to the use of sexual violence during armed conflicts was to hold the perpetrators responsible for their crimes. The adoption of the Statute of the International Criminal Court in Rome on 17 July 1998 was to be welcomed in that regard. The Statute of the Court explicitly classified rape and all other forms of sexual violence of comparable gravity as crimes against humanity. The Court would, however have jurisdiction only over crimes committed after its establishment. Crimes committed before that date would have to be judged by national judicial systems. It should also be pointed out that the case-law of the International Criminal Tribunal for Rwanda and the International Criminal Tribunal for the Former Yugoslavia confirmed that sexual slavery and other forms of sexual violence committed during armed conflict were international crimes, whether committed against men or women. At least half of the indictments of the International Criminal Tribunal for the Former Yugoslavia had been for sexual violence. In the Celebici judgement the Tribunal had cited an idea contained in the Special Rapporteur's final report to the effect that in many cases the discrimination prong of the definition of torture in the Convention against Torture provided an additional basis for prosecuting rape and sexual violence as torture. The International Criminal Tribunal for Rwanda had also made important contributions towards ending impunity for sexual violence committed during armed conflict. For example, Jean-Paul Akayesu had been found guilty

not only of genocide and incitement to commit genocide but also of having been present during acts of sexual violence by his subordinates while failing to stop them.

9. The update of the report also discussed the critical issue of the right of victims to repa· ation for gross violations of international law, including rape and other forms of sexual violence committed during armed conflict. It was to be hoped that the revised guidelines concerning the right of victims to reparation which were to be elaborated would take the particular situation of women into consideration. In the case of the 200,000 women and girls enslaved in so-called "comfort stations" by the Japanese Imperial Army during the Second World War, the Government of Japan had not admitted its legal liability and had failed to pay legal compensation to the victims. Some survivors had filed lawsuits in the Japanese courts to obtain reparation. Three of them had been awarded damages, but the claims of 46 others had been denied and several other cases were still pending.

10. In order to combat atrocities still occurring, States must adopt appropriate legislation to allow for the prosecution of international crimes within domestic legal systems, and ensure that their legal systems at all levels conformed to internationally accepted norms and were capable of adjudicating international crimes without gender bias. Provision must also be made for appropriate resources, mechanisms and personnel for the protection of victims and witnesses during and after prosecution of crimes involving sexual violence during armed conflict; an ongoing dialogue must be facilitated between the Preparatory Commission for the Establishment of an International Criminal Court and the relevant bodies of the United Nations in order to increase the efficiency of the International Criminal Court; proper investigation must be carried out into sexual violence during conflict situations with a view to eventual prosecution; and effective action must be taken at the conclusion of hostilities to break the cycle of impunity for the perpetrators of sexual violence committed during armed conflict. Such efforts must include the close collaboration of women in the peace-building process.

11. The report also stressed the need to consider the question of sexual violence and the discrimination against women and girls in their everyday lives everywhere in the world. Women belonging to racial, ethnic, religious or other minorities were particularly vulnerable. Often the shame, ostracism and dishonour that should be imputed to the perpetrator of sexual violence attached instead to the survivor if she dared to report the violence endured. Such women must absolutely be helped to overcome their fears and their pain and to demand that justice should be done.

12. Since the International Criminal Court, the International Criminal Tribunal for Rwanda and the International Criminal Tribunal for the Former Yugoslavia would be able to address only a small fraction of the violations that were being committed in armed conflicts, it was imperative that all the perpetrators of sexual violence should be prosecuted at the national level. Only then could it be hoped that sexual violence would no longer be used as a weapon of war.

13. Mr. QUISSÉ thanked Ms. McDougall for her very full report on sexual violence committed during armed conflict. Referring to the International

Criminal Court, the Special Rapporteur had said that it would only have jurisdiction over crimes committed after it had been established. He considered that that was a breach of the principle of the non-applicability of statutory limitations for serious crimes such as large-scale massacres. The perpetrators of numerous international crimes were indeed liable to go unpunished if national justice did not judge them.

14. Mr. DOTTRIDGE (International Movement Against All Forms of Discrimination and Racism and Anti-Slavery International) said that the two non-governmental organizations which he represented and another two NGOs had organized a Consultation on trafficking in persons, prostitution and the global sex industry in June 1999, immediately before the twenty-fourth session of the Working Group on Contemporary Forms of Slavery. At the end of its session the Working Group had incorporated into its recommendations a number of the suggestions put forward by the NGOs during the Consultation. The NGOs had been pleased to note that the Working Group had encouraged States to ensure that victims of sex trafficking were not the subject of criminal proceedings or other legal and administrative sanctions and had also recommended that the United Nations General Assembly should declare a United Nations Year against Trafficking in Persons to assist the development of plans of action at both the national and international level. The international community needed first and foremost to be clear about the abuses it intended to end and the measures to be put into force in order to do so.

15. The elaboration of a draft additional protocol to the United Nations Convention against Transnational Organized Crime to prevent, suppress and punish trafficking in persons, especially women and children was also welcomed. The term "traffic" should not refer exclusively to prostitution but also to other forms of forced labour, particularly when women and children were involved.

16. It seemed that there was no United Nations body to provide technical expertise on the suppression of traffic in persons. States which had ratified the three United Nations conventions on slavery which were the basis of the Working Group's mandate were not required to report either to that Working Group or to any other United Nations body about their efforts to implement the conventions. That situation needed to be remedied.

17. Ms. SHAUMIAN (International Institute for Peace) took as her theme the exploitation of children. In her opinion the most dangerous and most destructive form of slavery.

18. Never before in history had so many children been the victims of cruelty and violence; special attention should therefore be given to the needs of children in the labour market. The adoption of the new ILO Convention on Extreme Forms of Child Labour was to be welcomed. The number of working children worldwide according to ILO estimates was a staggering 250 million, of whom at least 120 million between the ages of 5 and 14 were working full time, particularly in Asia and South-East Asia, with terrible consequences for their mental and physical development.

19. Child labour also existed in many industrialized countries where it affected disadvantaged families and social groups. It was mainly poverty that drove parents in developed and developing countries to send their children to work. Sometimes families had to pledge their children's labour in return for a loan to buy food or medicine. That practice constituted debt bondage and was officially considered as slavery.

20. Many rural families in poor countries sent their children to town for domestic work. Those children, the majority of them girls, were estimated at 200,000 in Haiti, with 40,000 in Port-au-Prince alone. They were not always paid and might work up to 18 hours a day, with no access to education, and they were frequently subjected to sexual abuse.

21. Her Institute supported the International Programme on the Elimination of Child Labour which focused on the need for the total prohibition of bonded child labour, commercial sexual exploitation and traffic in children, child labour in domestic service and child labour in hazardous work. It also welcomed the establishment in 1991 of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery. The total amount of the contributions to date meant that every one of the 250 million child workers in the world would be able to receive assistance.

22. Ms. CHUNG (Asia-Pacific Forum on Women, Law and Development) thanked Ms. McDougall for her pioneering and soul-searching work on systematic rape, sexual slavery and slavery-like practices during armed conflict, which would be a continuing source of hope for the countless number of victims of sexual violence during armed conflict in the past and present. The impunity of the perpetrators of sexual slavery, particularly as practised by Japan during the Second World War, was a major reason for the prevalence of that practice and other forms of sexual violence in present armed conflict situations.

23. As the Special Rapporteur had pointed out, the victims of Japanese atrocities had received neither reparation nor compensation nor had the Government of Japan officially acknowledged liability, either in the case of the victims of sexual violence or in that of former prisoners of war, Koreans in particular, subjected to forced labour in slavery-like conditions. The legacy of Japanese military slavery was thus liable to pass to the next century without justice being done, hindering the work of reconciliation and peace. The problem would not be settled until Governments in general and in particular the Governments of countries where the victims lived, placed the issue over and above their supposed national interests. Rhetoric was rife but no effective action had been taken and the human rights protection mechanisms of the United Nations had clearly demonstrated their limitations. Efforts had been made in civil society, in particular an initiative to set up a civilian war crimes tribunal on Japanese military sexual slavery. The international community was invited to contribute to the success of the effort.

24. In view of the fact that the practice of systematic rape and sexual slavery continued in current armed conflicts as in the past and that there were no adequate mechanisms to combat sexual violence, the Forum suggested that the mandate of the Special Rapporteur on systematic rape, sexual slavery and slavery-like practices should be extended in order for the Sub-Commission to develop new international standards or guidelines for the elimination of

those practices to ensure the protection of victims and permit the prosecution of perpetrators, and institute model legislation to harmonize national legislation with new international schemes for protection. The Office of the High Commissioner for Human Rights could help to break the circle of impunity, especially by documenting sexual violence during armed conflict in cooperation not only with governmental institutions but particularly with NGOs, as recommended by Ms. McDougall in her update report. With respect to the issue of Japanese military sexual slavery during the Second World War, it was essential for the Sub-Commission to continue its work until the Government of Japan met the demands of the international community, for example, at the very least, by providing a yearly update on the situation.

25. Ms. PARKER (International Educational Development) drew attention to two contemporary forms of slavery: low-paid or unpaid prison labour and sweatshops. Inadequately paid prison labour was a prevalent form of slavery even in the developed world. For example, in the United States, wages paid to prisoners were far below the legal minimum wage. In Japan, major motor-vehicle construction companies regularly used unpaid prison labour. The Working Group on Contemporary Forms of Slavery should address prison labour as an issue of high priority.

26. Sweatshops were another increasingly common contemporary form of slavery. In Saipan, in the Marianas Islands, workers (mostly women) were recruited from impoverished Asian countries by major American companies to work in garment factories for grossly inadequate wages often 12 hours a day seven days a week in insalubrious and almost inhumane conditions. A lawsuit had been filed against several of those companies. It was to be noted that the United States had acceded neither to the International Covenant on Economic, Social and Cultural Rights nor to ILO Conventions Nos. 87 and 100, setting out workers' rights applicable to sweatshops on its territory. The Sub-Commission should encourage the Working Group to continue to address the question of sweatshops and their proliferation, perhaps in a joint initiative with ILO.

27. Her organization was extremely pleased that the contributions to the United Nations Voluntary Fund on Contemporary Forms of Slavery had increased. It thanked all donors and invited Governments which had not yet contributed to the Fund to do so.

28. Ms. PATTY (Interfaith International) shared Mr. Guissé's concerns about the continued existence of slavery-like practices in Mauritania and Sudan. The practice of slavery had re-emerged in Sudan as an effect of the current civil war and its prime victims were young women and children from the Dinka and Nuba peoples living in Southern Sudan and the Nuba Mountains. The crimes in question were mainly committed by the nomad militias armed and financed by the Government. In Mauritania, the practice of slavery still continued and affected nine tenths of the population of African origin. The State of Mauritania had not implemented the laws abolishing slavery and had never provided reparation for the damage to which the victims had been subjected.

29. Her organization regretted the Sub-Commission's decision to cease passing resolutions on countries whose human rights situation was already

being covered by the public procedure of the Commission on Human Rights. The latter could not, because of political interests, address certain issues, unlike the Sub-Commission which was an independent body. Her organization therefore urged the Sub-Commission to reconsider its decision so as fully to assume its responsibilities toward the promotion and protection of human rights anywhere in the world.

30. The use of women and girls as booty in armed conflicts almost everywhere in the world was a war crime which would go unpunished unless effective measures were taken. Six years after the issue of the Korean "comfort women" had been brought to the attention of the United Nations, her organization hoped that Japan would provide information on what follow-up it had given to the matter, open its records to the public and finalize the issue.

31. Mr. HASSAN (Observer for Pakistan) congratulated the Working Group on Contemporary Forms of Slavery for its excellent work. The Working Group provided a forum for useful discussion not only between experts and Governments but also between Governments and NGOs on the very important question of contemporary forms of slavery and was an indispensable tool of the Sub-Commission. His delegation was therefore not favourable to certain proposals to replace the Working Group by a special rapporteur. At the last session of the Working Group the question had arisen as to whether it should or not be engaged in monitoring forced labour situations. His delegation believed that it should focus on its original task of considering issues relevant to the prevention of slavery since the follow-up role had already fallen to other bodies such as the Human Rights Committee and the Committee on the Rights of the Child, while supervisory machinery already existed to monitor the implementation of the ILO Conventions on forced labour, and in particular Conventions Nos. 29 and 105.

32. Mr. TALIB (Observer for Sudan) recalled that Sudan was party to the conventions prohibiting slavery, while article 20 of its Constitution clearly stipulated that no human being should be subjected to slavery or forced labour. It was all the more regrettable that some irresponsible groups were circulating claims that certain acts of abduction of women and children, resulting from tribal conflicts in some areas of Sudan and exacerbated by armed conflict in Southern Sudan, amounted to slavery. In 1996 the Government of Sudan had established a commission to investigate the situation, which had concluded that the allegations of slavery were totally unfounded. Furthermore, pursuant to a request by the Commission on Human Rights in its resolution 1999/15, the Government established in June 1999 the Committee for the Eradication of Abduction of Women and Children, which comprised in its membership representatives of intergovernmental organizations, civil society and NGOs collaborating directly with UNICEF, UNHCR and Operation Lifeline Sudan. As from July, the Committee, in cooperation with the Dinka Tribal Committee, had released more than 20 abducted women and children who were reunited with their families. In cooperation with UNICEF, it had organized in Khartoum a three-day workshop on the eradication of the abduction of women and children, with the participation of many local and foreign NGOs, representatives of the leaders of the nomadic tribes concerned and interested foreign diplomats. Work plans were adopted for the liberation of all abducted

women and children and plans to undertake a similar process in areas controlled by rebels in Southern Sudan were being drawn up as part of a joint effort between UNICEF and Operation Lifeline Sudan.

35. The Government of Sudan welcomed the cooperation of the international community in its efforts to put an end to the practice of the abduction of women and children. It considered nevertheless that it could contribute even more by addressing the root causes of the phenomenon, which were to be found in the armed conflict in Southern Sudan. It called on the international community to urge the rebel movement to accept the general unilateral ceasefire declared recently by the Government and to come to the negotiating table in order to arrive at a just and final solution to the conflict.

36. Mr. PAK Tok Hun (Observer for the Democratic People's Republic of Korea) drew the Sub-Commission's attention to the crimes against humanity committed by Japan which, throughout its 40-year long occupation of Korea, had forcibly drafted more than 6 million Koreans into its army and forced 200,000 Korean women to serve as sex slaves for Japanese soldiers. Japan was legally and morally required to acknowledge and compensate for those crimes. In her final report on systematic rape, sexual slavery and slavery-like practices during armed conflict (E/CN.4/Sub.2/1998/13), Ms. McDougall had concluded that Japan was responsible for grave violations of human rights and humanitarian law which amounted in their totality to crimes against humanity. She had recommended that Japan should seek out and prosecute all those responsible and set up a swift and adequate compensation scheme to provide official compensation to the "comfort women". Far from apologizing for the wrongs caused to the Korean people, however, the Japanese authorities revised history and commended the criminals.

37. His delegation demanded that the Japanese Government should reflect upon its crimes against humanity and urged it first of all to acknowledge its responsibility for the inhumane crimes against the Korean people, secondly, to compensate the victims of those crimes, and, thirdly, to seek out and prosecute all the perpetrators of those crimes. Japan must clearly show the international community that on the threshold of the new century it was willing to face up to its past.

38. Mr. HUSSIN (International Peace Bureau) said that his organization was deeply concerned about the question of violence against women in armed conflict and the use of rape as a weapon of war. Violence of that type, used as a weapon to break the will of a whole people, was being employed by the Sri Lankan army against the Tamil population, and against women in particular, as the Commission's Special Rapporteur on extrajudicial, summary or arbitrary execution and the Special Rapporteur on violence against women had outlined in their respective reports.

39. The Tamil community had been further shocked by the discovery of mass graves in Chemmani. Appeals had been made, particularly by a women's association, for independent foreign forensic experts to be involved in the exhumations. However, the Foreign Ministry had said that while foreign experts could be present they would not be permitted to participate directly

in the investigation process. The situation was causing great concern, as was the fact that the armed forces of Sri Lanka were continuing to rape and murder Tamil women.

39. His organization appealed to the Sub-Commission strongly to condemn human rights violations in Sri Lanka, to demand independent inquiries on the question of the mass graves and to appoint a special rapporteur on the situation in Sri Lanka.

40. Mr. FAN Guoxiang congratulated Ms. Ksentini on the quality of the report of the Working Group on Contemporary Forms of Slavery (E/CN.4/Sub.2/1999/17) and Ms. McDougall for her updated report on systematic rape, sexual slavery and slavery-like practices during armed conflict (not yet published). Referring to chapter VI of the latter report, he noted that the question of the "comfort women" who had been the victims of the system of military sexual slavery set up by the Japanese Army during the Second World War had still not been settled. The Japanese Government had indeed offered apologies but that was not completely satisfactory in that the victims had received no official compensation from the authorities. The question of Japan's legal liability, which it had still not acknowledged, also arose. There was no question of invoking the liability of the Japanese Government as a whole, but only that of the imperialist military Government in power at the time.

41. Ancestor worship, which was part of traditional Japanese culture, did not in itself merit criticism, but it should not be forgotten that war criminals figured among those ancestors. To criticize Japanese imperialism was not to criticize the Japanese overall since there had been Japanese among its victims, nor could the new generation be held responsible for the acts of its forebears. The Japanese Government must nevertheless learn from history and, instead of evading its responsibilities, give satisfaction to the women who had been the victims of those practices and who were asking for compensation.

42. Mr. DIAKITE congratulated the Working Group on Contemporary Forms of Slavery on the quality of its report. It was sad that the issue of slavery was still current at the turn of a new century, the twenty-first, and alarming to witness the proliferation of such practices, their existence in nearly every country and their burgeoning development as a result of the new information technologies, particularly Internet. Globalization meant that some of them had become a regular occurrence. The lowest form of exploitation was sexual slavery, the subject of Ms. McDougall's updated report, which rightly stressed the need to put an end to the impunity of the perpetrators of sexual violations against women.

43. In view of the many problems relating to the practices of slavery awaiting consideration, he was glad that the Working Group had decided to set itself priority areas for action such as the traffic in persons. At its last session, the Working Group had made a number of useful recommendations, inter alia, concerning the development of national plans to tackle the problem, the importance of information campaigns in the countries of origin of the victims and the establishment of machinery to protect witnesses and victims and social reintegration programmes for the latter. Governments must also be urged to collaborate more with the Working Group and organization

needed to be strengthened on the one hand between the various competent international agencies and on the other between the national and international protagonists. The idea of setting up machinery to coordinate issues of the traffic in persons was a useful one and should be considered in greater depth in consultation with the Office of the High Commissioner for Human Rights. Lastly, he considered that the Working Group could also play an important role in standard-setting, particularly by assisting the international bodies dealing with the question.

43. Mr. JOINET said that the report of the Working Group on Contemporary Forms of Slavery was right to stress the growth of the phenomenon of the traffic in persons and the exploitation of prostitution by others. He considered it to be an effect of the cold war, partly to be explained by the destitution to be found in the Russian Federation, for example, where the traffic was organized in the direction of countries like France.

44. In view of the fact that the implementation and the follow-up of the conventions on slavery was rarely mentioned, it was essential that the Working Group, the dissolution of which had been envisaged by the Bureau at the fifty-fourth session of the Commission, should continue to exist. In fact, it was the only body in which anti-slavery non-governmental organizations could engage freely in dialogue with Governments.

45. Referring to agenda item 5, he said that a large section of the report on the development of the situation regarding the elimination of traditional practices affecting the health of women and the girl child (E/CN.4/Sub.2/1999/14) consisted of a historical review. The subject of excision had in the past been taboo in the international organizations since it was regarded as an essentially cultural matter. He recalled the difficulties to which the appointment of a special rapporteur had given rise at the time and the courage Ms. Warzazi, as an African, had shown in accepting the mandate. Fifteen years previously, it had been unthinkable for the African countries to take a stand on such issues. In his opinion, when a problem comprised a cultural dimension only time would permit of its solution. On that count the report should be annual, otherwise States would not rally to the implementation of their national plans.

46. Mr. EIDE (UNEP) considered that the update of Ms. McDougall's report was useful since it gave an idea of the development of the situation over the past year. Unfortunately, the hopes which had emerged then of applying new rules of behaviour in armed conflict had not materialized on the ground and sexual violence was still widely used as a weapon of war. As the report of the Secretary-General on the situation of women and girls in Afghanistan showed (E/CN.4/Sub.2/1999/13), the warring factions considered rape as a weapon. Measures were needed to ensure that such acts, which constituted serious violations of international human rights, did not go unpunished.

47. The adoption on 17 July 1999 of the Statute of the International Criminal Court was a move in the right direction, although the Court only had jurisdiction over crimes committed after the entry into force of the Statute. The International Criminal Tribunal for the Former Yugoslavia and the

International Criminal Tribunal for Rwanda were already tangible proof that the international community was making headway towards ensuring that international standards were respected.

48. Where the question of the "comfort women" was concerned, he regretted that a satisfactory solution to the problem had not yet been found.

49. Mr. OLOKA-ONYANGO said that traditionally the root causes of human rights violations could be explained by a host of historical, social, political, economic and cultural factors. Taking the case of Rwanda as an example, it had been known for decades that one of the primary sources of violations was the oppression of the Tutsi minority by the Hutu majority. The world should not have been surprised, therefore, by the 1994 explosion. In his opinion, the root causes for human rights violations in every context should be traced back to the smallest unit of society, namely, the family, in order to understand the violations which were manifested at the level of the State. In other words, the State was simply the family writ large, which provided some explanation for the sexual violence targeting women in so many conflicts throughout the world. That made it possible to understand that many human rights violations during armed conflict derived from the relations between men and women and age and sex discrimination within the family itself. The ideology of patriarchy - that men should lead and women must follow - was an often unacknowledged but extremely insidious root cause of human rights violations.

50. Turning to the issue of the "comfort women", it was painful to observe that the problem remained largely without solution, that no reparation had been made to the victims, and that the Japanese authorities had never officially acknowledged their liability. Even more painful was the fact that the United Nations was impotent to contribute to solving the problem.

51. Ms. DAES thanked and congratulated the Chairperson-Rapporteur, Ms. Warrazi, and all the other members of the Working Group on Contemporary Forms of Slavery whose report on its twenty-fourth session (E/CN.4/Sub.2/1999/17) was both extremely interesting and comprehensive. She paid tribute to the non-governmental organizations which had taken part in the work of the Working Group and played an important role in increasing public awareness, nationally and internationally, of the grave consequences of contemporary forms of slavery, particularly for women and children.

52. She drew attention once again to the existence of new contemporary forms of slavery and slavery-like practices, especially those to which illegal asylum-seekers were subject. Migrant workers were particularly affected, when they left their countries, often at the risk of their lives, to seek a better life abroad, and were mercilessly exploited by unscrupulous refugee smugglers or middlemen. It would be useful for the Working Group to be given specific data so that it could consider the problem in greater depth at its next session.

53. She welcomed Ms. McDougall's updated report on systematic rape, sexual slavery and slavery-like practices during armed conflict. "Under certain conditions rape was a crime against humanity and should be condemned and punished in accordance with international law. The International Criminal

Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda had in some of their rulings considered sexual slavery and sexual violence during armed conflict to be international crimes. She hoped that the Sub-Commission would be able to give the report the attention it merited at its fifty-second session.

54. Ms. IULIA MOTOC, speaking on agenda items 5 and 6, said that it was a pity that few NGOs seemed to have any interest in the situation of women in Central and Eastern Europe. Their situation was generally mentioned in connection with the war in Bosnia or Kosovo where women had been the victims of sexual violence, in Ms. McDougall's report or in the context of traffic in persons for the purpose of prostitution, notably in the report of the Working Group on Contemporary Forms of Slavery. Those extreme situations gave a kind of radical feminist glimpse of women's place in Central and Eastern Europe.

55. She noted Ms. Warzazi's insistence in her report on traditional practices affecting the health of women and the girl child (E/CN.4/Sub.2/1999/14) on the need to establish a balance between calls for women's rights and tradition. It was a fact that a sudden transition from a patriarchal society to one which fully respected women's rights was not possible. An intermediate stage was required to eliminate all discrimination between men and women. In the countries of the European Union, positive action for women was fairly advanced; the basic principle of the Treaty of Amsterdam was non-discrimination between men and women. In Central and Eastern Europe, the protection of women's rights was retrogressing since equality between the sexes had often been imposed by force under a socialist regime and was therefore rejected. Some intellectuals even declared themselves to be antifeminist. The law stressed the role of women as mothers. There was therefore a need for the international community to take action to reinforce the protection of women in Central and Eastern Europe.

56. Ms. HAMPSON, speaking on agenda item 5, began by referring to the problem of incontinence often experienced by women who had undergone female circumcision and were abandoned by their husbands and the community as a result. A simple operation could solve the problem. Communities must therefore be persuaded not only to abandon the practice of female circumcision but to be more tolerant to women experiencing the after-effects and ensure that they had access to health care for that condition.

57. She agreed with all that had been said about means of combating the traffic in persons for the purpose of prostitution. She hoped that the Working Group on Contemporary Forms of Slavery would particularly address the problem of juvenile prostitution, often the result of poverty and marginalization.

58. With reference to the question of sexual slavery and slavery-like practices in times of war, she noted that the incidence of sexual aggression and rape was higher among the armed forces than in the male population as a whole, whether in times of peace or of war, at least in some States. It was clear, however, that rape was becoming a genuine weapon in armed conflict. All the measures to solve the problem already taken or envisaged by the special tribunals for the former Yugoslavia and Rwanda or the Statute of the

International Criminal Court were necessary but they were inadequate. It was means of preventing violations that had to be found, by adopting domestic legislation which prohibited and penalized rape by including it in the definition of torture, by putting resources into the training of persons who would be dealing with the victims of rape, and by applying special measures to protect the victims and the witnesses of such acts. Analagous provisions should be incorporated into codes of military justice and codes of military procedure and special training given to military investigators. States that had not yet done so should be encouraged to ratify the Protocols to the Geneva Conventions of 1949 and promulgate appropriate laws to ensure their effective implementation. The International Committee of the Red Cross would be able to provide appropriate advisory services.

59. What was needed above all was to reinforce the training and education not only of the members of the armed forces but of the entire population so as to inculcate respect for the human person, irrespective of sex, age, nationality, colour or ethnic origin. Such training programmes needed constant monitoring and, where necessary, revision to increase their efficacity if the statistics on sexual violence on the part of the armed forces did not show a decline. It was to be hoped that the Secretary-General, who was currently studying the question of the protection of civilians in situations of conflict, would consider putting in place, in cooperation with the International Committee of the Red Cross, a mechanism for monitoring not only the implementation of the Geneva Conventions through domestic legislation but also the effectiveness of the army training programmes. Any Government which had not taken the necessary measures would have demonstrated that it did not take seriously the problem of systematic rape, sexual slavery and slavery-like practices, thus exposing its armed forces to the risk of prosecution before the International Criminal Court or the courts of third States, and would have shown that it had not been capable of acting as it should.

60. In conclusion, she recalled that under the 1907 fourth Hague Convention concerning Laws and Customs of War on Land, which was part of customary law, States were responsible for all acts committed by persons forming part of their armed forces and were liable to pay compensation, if violations occurred. In her opinion that applied to the question of the "comfort women".

61. The CHAIRMAN declared that the general debate on agenda item 6 was closed.

HUMAN RIGHTS OF INDIGENOUS PEOPLES

(a) INDIGENOUS PEOPLES AND THEIR RELATIONSHIP TO LAND (agenda item 7) (E/CN.4/Sub.2/1999/18, 20 and 24; E/CN.4/Sub.2/1999/NGO/1 and 16; E/CN.4/Sub.2/AC.4/1999/7)

62. Ms. DAES (Chairperson-Rapporteur of the Working Group on Indigenous Populations), introducing her report on the seventeenth session of the Working Group on Indigenous Populations (E/CN.4/Sub.2/1999/19), which had been distributed in English only in an unedited version, began by thanking the other members of the Working Group and the secretariat whose devoted work had ensured the success of the seventeenth session. In particular, she was deeply grateful to the Chairman, Mr. Hatano, thanks to whose assistance her visit to

Japan, which had marked the start of close and sincere collaboration between the Government of Japan, the Ainu people and the Working Group, had produced fruitful results. In all, an unprecedented 971 persons - representatives of indigenous organizations, States, non-governmental organizations and United Nations specialized agencies, scholars, experts and human rights defenders - had taken part in the work of the Working Group. Its deliberations had taken place in a friendly atmosphere, permitting a constructive dialogue, even when controversial issues were discussed. On several occasions, the indigenous peoples had expressed their gratitude to the members of the Working Group and to the Sub-Commission as a whole for their sincere concern regarding their fate and regarding the recognition and protection of their rights in order to ensure their survival. In certain cases they had recognized that some Governments had already adopted measures to improve the living conditions of the indigenous peoples while others had continued their policy of oppression.

63. The discussions had followed the main theme of the seventeenth session, namely, "Indigenous peoples and their relationship to land", based on the second progress report on the subject (E/CN.4/Sub.2/1999/18) which she would present at a later stage. The Working Group had also considered the final report on the study of treaties, agreements and other constructive arrangements between States and indigenous populations (E/CN.4/Sub.2/1999/20), prepared by Mr. Alfonso Martinez, and had endorsed its conclusions and recommendations.

64. In its own conclusions and recommendations, contained in paragraphs 164 to 195 of the report on the seventeenth session, the Working Group had reaffirmed its view that the review of new developments was a fundamental part of its mandate. It had decided that the theme of its eighteenth session would be "Indigenous children and youth" and had recommended that the High Commissioner should consider the active participation of UNICEF and the Committee on the Rights of the Child at that session. Standard-setting activities being also a fundamental part of its mandate, the Working Group had decided to invite the Office of the High Commissioner for Human Rights to organize, in collaboration with ILO, UNCTAD and WTO, a workshop on indigenous peoples, the private sector, natural resources and energy and mining companies within the framework of human rights. The Working Group had also noted that a large number of participants had expressed their support for a permanent forum for indigenous peoples and had put forward relevant comments and suggestions. It had also recommended the organization of a world conference on indigenous issues to be held during the last year of the International Decade of the World's Indigenous People in 2004 in order to evaluate the results of the Decade and consider future international policies and programmes that would effectively contribute to the reconciliation of Governments with the indigenous peoples. It welcomed the organization of World Indigenous Nations Games and requested the High Commissioner for Human Rights to support the initiative. Lastly, following the repeated appeals by indigenous peoples, the Working Group had requested the appointment of a special rapporteur on indigenous issues in order to collect information from Governments, indigenous peoples and intergovernmental and non-governmental organizations concerning the promotion and protection of the human rights of indigenous peoples.

65. Ms. CECHUROVA (Radical Party Transnational and Transdivisional) said that Ms. Daes' final working paper on indigenous peoples and their relationship to land (E/CN.4/Sub.2/1999/18) was all the more useful in being submitted at the time of the mid-term review of the International Decade of the World's Indigenous People, one of the goals of which was to promote the land rights of indigenous peoples. In many countries, the unbridled development of the natural resources of land occupied by indigenous peoples had resulted in serious environmental pollution, which had had an adverse social impact on the indigenous people themselves.

66. The most serious case was that of the indigenous peoples of West Papua whose rights were constantly flouted as a result of copper and gold-mining operations by the Freeport McMoran company which provided an important source of income for the Indonesian regime. The local indigenous communities received only a tiny share - 5 billion dollars - of the fund set up by the Government after the National Commission on Human Rights found evidence of human rights violations, which was to have given about 45 billion dollars to the local population. They had not been informed about the fate of those billions of dollars. Similarly, the indigenous peoples had received no compensation for the destruction of the thousands of hectares of forest by the logging companies which operated without consulting them. The inhabitants of West Papua had become a disadvantaged minority on their own land as a result of the organized migration of people from heavily populated regions such as Java to less densely populated areas like West Papua, since the newcomers generally had a more advantageous position on the job market and in other areas of the economy and were subsidized by the Government.

67. Her Party therefore called on the Sub-Commission to urge all Governments to allow indigenous peoples to take responsibility for their own affairs and have an effective voice in decision-making in matters affecting them as suggested by the Commission in its resolution 1999/51. The Sub-Commission should also encourage a genuine dialogue between Governments and indigenous peoples, in general as well as in concrete cases like that of West Papua. Lastly, it called for the adoption of the Draft Declaration on the Rights of Indigenous Peoples as it stood.

The meeting rose at 5.55 p.m.

UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1999/SR.18
25 August 1999

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PROMOTION AND
PROTECTION OF HUMAN RIGHTS

Fifty-first session

SUMMARY RECORD OF THE 18th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 17 August 1999, at 10 a.m.

Chairman: Mr. HATANO

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(a) INDIGENOUS PEOPLES AND THEIR RELATIONSHIP TO LAND (continued)

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GE.99-14938 (E)

The meeting was called to order at 10.a.m.

HUMAN RIGHTS OF INDIGENOUS PEOPLES:

(a) INDIGENOUS PEOPLES AND THEIR RELATIONSHIP TO LAND

(agenda item 7) (continued) (E/CN.4/Sub.2/1999/18, 20 and 24; E/CN.4/Sub.2/1999/NGO/1 and 16; E/CN.4/Sub.2/AC.4/1999/5)

1. Mrs. DAES, introducing her second progress report on the working paper on indigenous people and their relationship to land (E/CN.4/Sub.2/1999/18), said that comments received from the Governments of Australia, Canada, Denmark and New Zealand and from indigenous peoples' organizations had been duly considered and, in some cases, reflected in the report. As only a small number of comments had been received in the previous 12 months, however, she recommended that the second progress report should be circulated to Governments, indigenous communities and organizations, intergovernmental organizations (IGOs) and non-governmental organizations (NGOs) so that any ensuing comments, information or suggestions could be incorporated into the final working paper to be submitted to the Sub-Commission at its fifty-second session. She stressed, however, that she bore sole responsibility for the contents of the report.

2. The ongoing development of the rights of indigenous peoples to lands, territories and resources provided both States and the peoples concerned with an opportunity to contribute to the progressive development of human rights standards. Legal concepts and indigenous rights were not frozen in time and indigenous communities evolved just like other societies. A widespread contemporary problem was the failure of States to protect indigenous land use, occupancy and ownership by according appropriate legal status and legal rights to the communities concerned. Indeed State authority was used in many cases to extinguish aboriginal title to land and property.

3. The expropriation of indigenous lands and resources for development projects, frequently without the consent of the communities concerned, and the removal and relocation of indigenous peoples were serious and growing problems. Other key issues were: programmes to allot indigenous land to individuals; settlement programmes on indigenous lands; the practice of requiring that indigenous land should be held in trust by the State; the use of indigenous lands as collateral for loans; harmful State management of sacred and cultural sites; failure to protect the environmental integrity of indigenous lands and resources; and denial of the right of indigenous peoples to manage, use and control the development of their lands and resources.

4. The very survival of indigenous peoples was being jeopardized by continuous threats to their lands, territories and resources. Their distinctive and profound relationship with indigenous lands, air, waters, coastal seas, ice, flora and other resources had many social, cultural, spiritual, economic and political dimensions and entailed enormous responsibilities.

5. The most encouraging and productive measures proposed for resolving indigenous land issues were those based on fair and voluntary negotiations

between the States and the communities concerned under the auspices of an international body. In the view of many indigenous peoples, Convention No. 169 of the International Labour Organization (ILO) concerning Indigenous and Tribal Peoples in Independent Countries laid down minimum standards in respect of indigenous land rights. The draft declaration on the rights of indigenous peoples, approved by the Sub-Commission in its resolution 1994/45, also reflected a broad consensus among indigenous peoples, some States and experts on indigenous land and resource rights.

6. She highlighted a number of the preliminary recommendations contained in her report. States should enact legislation that accorded indigenous peoples legal protection, rights and status in respect of lands, territories and resources that placed them at least on an equal footing with other members of the population. Such legislation should recognize their traditional practices and law of land tenure and should be developed with the participation and consent of the indigenous peoples concerned. Special measures regarding indigenous land and resources should not, however, deprive indigenous peoples of legal rights in respect of land and resources that other groups and individuals enjoyed.

7. States should formally renounce discriminatory legal doctrines, policies and practices and should consider adopting corrective legislation or policies during the International Decade of the World's Indigenous People. States should also consider establishing and using impartial mechanisms, including international mechanisms, to oversee the resolution of indigenous land and resource claims and the implementation of land agreements. States, the United Nations system and other intergovernmental bodies should take steps to provide training and educational facilities and financial and technical resources to assist indigenous peoples in land rights negotiations.

8. The Commission on Human Rights, the Economic and Social Council and the General Assembly should consider whether the proposed permanent forum for indigenous people could play a constructive role in addressing issues of land and resource rights and environmental protection. The United Nations system and other intergovernmental bodies should ensure that indigenous peoples' cultural diversity, traditional values and ways of life were protected in the implementation of Agenda 21. The High Commissioner for Human Rights should consider collecting examples of indigenous land agreements to facilitate the promotion of technical cooperation in that field. Indigenous peoples should participate in decision-making and policy-making regarding land, resources and development at the international, regional, national and local levels, inter alia in the context of the Commission on Sustainable Development and the Convention on Biological Diversity.

9. Mr. [illegible] introducing his final report on treaties, agreements and other constructive arrangements between States and indigenous populations (E/CN.4/Sub.2/1999/20), said that a revised version of the report would be published later in the year. A number of errors and omissions would then be corrected and two annexes reflecting criticism of his position concerning the applicability of the term 'indigenous' in Africa and Asia would be appended. That criticism had been expressed in communications from participants in the Working Group on Indigenous Populations. Paragraphs 86, 87 and 88 of the report were new and concerned that issue.

10. The report was the product of 10 years' work and he bore sole responsibility for its contents, conclusions and recommendations. Paragraph 131 had been amended to take account of a comment made by the Government of Denmark on events in Greenland. A correction by the representatives of the indigenous people of Hawaii would be included in the revised version to be published at the end of 1999.

11. Part IV contained the Special Rapporteur's conclusions and recommendations. He agreed with Mrs. Daes in stressing the primacy of the issue of recognition of indigenous peoples' right to their lands and resources. Moreover, indigenous peoples, like all other peoples on Earth, had an inalienable right to self-determination. At the same time, States had a right and duty to defend their territorial integrity. Any conflict that arose between the exercise of those two rights should be resolved by peaceful means, preferably through national conflict-resolution mechanisms, although the establishment of a body with international jurisdiction should not be ruled out. In the vast majority of cases, the relationship between indigenous peoples and non-indigenous sectors of society was one of conflict and many indigenous communities and Governments thought that existing mechanisms were incapable of resolving such conflicts.

12. Treaties concluded by non-indigenous settlers and their successors with indigenous peoples remained in force unless both parties decided that they should be terminated. Such instruments could not be unilaterally declared null and void. Peoples who had been given some form of recognition under international law should not be viewed as having acquired a different legal status unless valid reasons were adduced for the change.

13. He recommended the establishment within States having a sizeable indigenous population of a new jurisdiction that would be capable of defusing potential conflicts before they erupted. The jurisdiction should have advisory functions, the capacity to initiate legislation, judicial functions enabling it to adjudicate cases and hand down binding decisions on existing conflicts, and administrative responsibility for logistic aspects of indigenous/non-indigenous relations during a transitional period.

14. He would respond to criticism of his position on the applicability of the term 'indigenous' in post-colonial regions of Africa and Asia after the debate on agenda item 7 had been completed.

15. Mr. Yimsiri, speaking as a member of the Working Group on Indigenous Populations, thanked Mrs. Daes and Mr. Alfonso Martínez for responding to criticism of their reports and taking account of the existence in Asia and Africa of indigenous peoples who had been displaced from their lands by colonization and were asserting their rights to those lands. He hoped that the contributions of organizations of indigenous peoples in Asia and Africa would be reflected in future reports and give rise to standards applicable to those peoples.

16. In some parts of the world where pharmaceutical products were not yet available, indigenous peoples were just as healthy as their fellow citizens with access to such products. Their organisms and immune systems tended to

suffer, however, when they came into contact with industrial pharmaceutical products. He called for research with a view to ensuring that indigenous peoples enjoyed legal protection of their physical integrity and the environment in which they lived.

17. Mrs. DAES said that, to her knowledge, there had been no criticism of her report by Asian or African participants in the Working Group on Indigenous Populations.

18. Mr. CUISSÉ said that criticism was perhaps the wrong term. There had merely been requests to extend the scope of the studies to include continents that had been excluded on the grounds that their populations did not include indigenous peoples.

19. Mrs. DAES said that all her reports had been global in scope.

20. Ms. LEVERGER (France Libertés - Fondation Danielle Mitterrand) said that the Mapuche people, who made up 10 per cent of the population of Chile, were threatened with the destruction of their environment and eviction from their lands as a result of the activities of foreign-backed Chilean logging and hydroelectric enterprises. An attempt to defend their way of life had met with government oppression, arrests and torture, and campaigns of terror were being waged against them by paramilitary groups in the pay of the transnational corporations. The Sub-Commission should call upon the Government of Chile to halt the oppression of the Mapuche people and afford them constitutional recognition.

21. In defiance of successive Security Council resolutions, the Moroccan army had occupied much of Western Sahara for more than 20 years. Her organization called upon the international community, and in particular the United Nations Mission for the Referendum in Western Sahara (MINURSO), to spare no effort to ensure that the people of Western Sahara were accorded the right to self-determination.

22. Mr. PHILLIPS (Minority Rights Group) said that a recent report by his organization highlighted the dramatic effects of deforestation on indigenous peoples in Asia. Deforestation was proceeding at an average annual rate of 2.9 per cent and constituted a violent attack on the land and other rights of indigenous forest communities by transnational corporations and so-called "development" programmes. Indigenous communities in peninsular Malaysia were threatened by highway projects, plantation schemes and the aggressive promotion of tourism. Government-sanctioned logging had inflicted massive environmental damage in Thailand. A community in Nepal's Chitwan Valley had seen its livelihood destroyed by bridge and dam construction. In India, up to 30 million people, 40 per cent of them indigenous, had been displaced by mining activities and deforestation. Mangrove forests in the coastal areas of Bangladesh had been cleared for commercial shrimp farming schemes funded by the Asian Development Bank and the World Bank.

23. The blame did not lie solely with Governments. His organization recommended that, as a minimum, international financial institutions, companies and development agencies should adopt clear policies that recognized

indigenous peoples' rights, and ensure their active and informed participation, involving their specific consent, in any development projects that would affect them.

24. Mr. LITTLECHILD (International Organization of Indigenous Resource Development) said it was unfortunate that the Working Group on Indigenous Peoples had had insufficient time to consider all the items on the agenda of its seventeenth session. His organization thus urged the Sub-Commission to request the Commission to extend the Working Group's future sessions to 8 or 10 days, and to consider self-determination, indigenous lands and economic rights as possible future themes therefor.

25. With regard to the International Decade of the World's Indigenous People, he suggested that the Sub-Commission should follow up the proposals submitted by his organization to the Economic and Social Council at its most recent substantive session, and, in particular, the call for a United Nations world conference on indigenous issues to be convened before the end of the International Decade.

26. The final report on treaties, agreements and other constructive arrangements between States and indigenous populations (E/CN.4/Sub.2/1999/20) reflected the view that those instruments were international treaties between nations. The final report required detailed study and analysis by the leaders of the nations in all the treaty territories. Either United Nations seminars or a workshop should be convened for the purpose. Alternatively, it should be included in the agenda of the world conference on indigenous issues. The High Commissioner for Human Rights should call for the early establishment of a permanent forum for indigenous people in her next annual report to the General Assembly.

27. His organization endorsed paragraphs 116, 124, 126 and 128 of the second progress report on the working paper on indigenous people and their relationship to land (E/CN.4/Sub.2/1999/14), urged the Sub-Commission to refer paragraph 144 thereof to the open-ended inter-sessional ad hoc working group on a permanent forum for indigenous people, for consideration in its final report, and urged Mrs. Daes to take account of the discriminatory treatment of indigenous war veterans of the Four Tree Nations of Hobbema in her next report. Lastly, his organization urged that the draft United Nations declaration on the rights of indigenous peoples be adopted without changes or amendments, and supported the call for the appointment of a special rapporteur on the situation of human rights in Mexico.

28. Mr. KHAN (International Institute for Peace) said that the 300,000-strong Pandit indigenous community of Kashmir, a compact ethnic and cultural group that had made a tremendous contribution to Kashmir's development and had always coexisted in harmony with its Muslim brethren, was facing cultural extinction as a result of the rise of religious fundamentalism and terrorism exported by a neighbouring country in furtherance of its political ends. Since the start of the 1990s, some 2,000 Pandits had been murdered, and almost the entire community had taken refuge in migrant camps in other parts of India, fleeing a reign of terror.

29. The forces responsible, which had previously wrought havoc in Afghanistan, were currently poised to strike at the rich cultural diversity of the Central Asian republics. His organization reiterated previous calls for the Sub-Commission to come to the rescue of a hard-working and enlightened community whose way of life was threatened with extinction.

30. Mr. ÖZDEN (Centre Europe-Tiers Monde) said that neo-liberal ideology, posing as a panacea for the planet's problems, encouraged the plundering of indigenous lands and the irreversible destruction of the environment by transnational corporations. Thus, in Colombia, the Embera-Katio people and the fishermen of the Sinu River region were threatened by the construction of the Urra I dam, which was nearing completion. Protests, demonstrations and petitions opposing the flooding of the valley had been met by a threat from a paramilitary leader to massacre the entire Embera-Katio people if they refused to leave their ancestral home.

31. Following two civil actions, the Constitutional Court had suspended the project pending proper impact studies, recognition of the elected Embera-Katio leaders by the authorities, and measures to compensate those affected. Nonetheless, there was every reason to fear that the project would go ahead, particularly in the light of the measures taken by Congress and the Government to undermine indigenous rights and give priority to transnational mega-projects.

32. The Sub-Commission must call upon the Government of Colombia to ensure respect for the rights of its indigenous peoples by transnational corporations, the army and paramilitary groups; to compel the Urra Corporation to respect the Constitutional Court ruling; to restore the indigenous population's economic infrastructure; to suspend flooding of the valley until an agreement had been freely signed by those affected; and to investigate crimes committed against the opponents of the scheme.

33. Mr. KITLEY (Consultative Council of Jewish Organizations) said that non-indigenous interests did not necessarily conflict with indigenous ones and autonomous legal arrangements need not pose a threat to legal sovereignty or to the principle of equality before the law. Greater account needed to be taken of the complexities of relations between different communities within States. It was all too easy for parties to become polarized if they adopted a stereotyped, outdated view of one another. Any dialogue worthy of the name implied mutual recognition by the parties, in all the complexity of their current status. Thus, some indigenous representatives had even asserted that there was no need for a fixed definition of "indigenous peoples".

34. Institutions linking indigenous and non-indigenous representatives were of critical importance in promoting open scrutiny of the arrangements agreed upon between them. Without such joint institutions, agreements might quickly fall apart, as had happened in the case of the provisions of the Helsinki Accords. It should be remembered that agreements redressing historical injustice and rectifying continuing discrimination served the common good, provided that relations between indigenous and non-indigenous communities were not seen as a conflict between opposing national identities. Peoples whose

rights were thus protected might be more likely than others to argue that their interests and those of the rest of the national community lay in cooperation.

35. Mr. KU HERRERA (Centre of Economic and Social Studies of the Third World) said that the Sub-Commission should examine the objectivity, impartiality, and ideological and political motives of those who systematically attacked Mexico and its institutions, using the indigenous problem as a pretext.

36. Millions of Mexicans, including most of the indigenous population, li in extreme poverty. Persisting colonial attitudes perpetuated racism and t denial of fundamental rights, and impeded the consolidation of a multi ethn multicultural society. Paternalism and ideological, political and religiou interference prevented the indigenous populations from exercising their rig to self-determination.

37. They had thus united to fight for democratic change, for equality of Mexican citizens before the law, for full participation by indigenous peopl in national development; for freedom to choose their own social models; for control over their natural resources; for sustainable development, education culture and freedom from discrimination; for an end to human rights violations, impunity and corruption; and for recognition and protection of their human dignity.

38. However, some indigenous people had mistakenly come to see conflict an violence as the only way to attain their objectives. The conflict in Chiap was not an indigenous movement; it was essentially a political movement bent on overthrowing the Government. The danger was that indigenous people would be used as pawns in a game in which the only winners would be the powerful a wealthy. The Sub-Commission should call upon the Zapatista National Liberation Army (EZLN) to promote a political solution to the Chiapas conflic by re-entering into negotiations, in which indigenous people would participate, as a means of halting the violence from which they could never stand to benefit.

39. Mr. TARU (Indian Movement "Tupaj Amaru") said that, five years after t adoption of the programme of Action for the International Decade of the World's Indigenous People, little or nothing had been done to solve their vital problems. They were still being deprived of their land and resources and were still succumbing to extreme poverty and the steady deterioration in their health and education. It was disappointing to note the selfishness of the rich countries of the North and the indifference of the dominant elites in the South and the incoherence of their policies to solve indigenous problems because there was no political will to do so and the economic and strategic interests of the Western Powers were excessive.

40. International cooperation meant stimulating the production of goods an services for the self-reliance of the indigenous people, and not wasting mon and time on courses, workshops and reports. The United Nations Voluntary Fu for Indigenous Populations lacked both the resources and the political will meet the requests of the communities concerned; it had become a kind of Caritas Internationalis, doling out paltry sums of money for the so-called

Decade projects as aims for the indigenous people. The Sub-Commission should look into the role of the Fund, the criteria for providing subsidies to projects and the transparency and composition of its Board of Trustees, with particular reference to their impartiality and independence.

41. If the Working Group on Indigenous Populations were to disappear as a result of the rationalization of the work of the Sub-Commission and its mechanisms, that would be a severe loss to the indigenous people. That did not mean that there was not a need to reformulate the Working Group's mandate, modify its procedures, broaden the scope of its authority and improve the composition of its membership, by the appointment of indigenous people as alternate members. Moreover, the Sub-Commission should entrust to the Working Group the task of elaborating an international legal framework to protect the cultural and intellectual property of indigenous people.

42. His organization was totally opposed to accepting the invitation by the United Nations Educational, Scientific and Cultural Organization (UNESCO) to hold the next meeting of the Working Group in Paris, because the Government of France had stated that there were no indigenous people in its country and it had, consequently, not recognized the right to self-determination of indigenous peoples.

43. Mr. RAJKUMAR (Pax Romana) said that, while the findings in the Special Rapporteurs final report on treaties, agreements and other constructive arrangements between States and indigenous populations (E/CN.4/Sub.2/1999/20) could help redress the historical injustice suffered by some indigenous peoples, his organization was greatly concerned by its failure to analyse treaties concluded between States and the indigenous peoples of Africa and Asia. That gap in the report might lead to the erroneous assumption that there were no indigenous peoples in those continents and the omission should be rectified in a later study.

44. The report did, however, acknowledge the importance of the relationship between indigenous peoples and their land. Transnational corporations, particularly high-risk ones, were more likely to be sited on the land of indigenous peoples, where the economic and political power to reject them were limited. In a number of countries indigenous people were being displaced from their traditional lands and livelihoods by government policy, tourism, mining and logging.

45. His organization welcomed the progress made towards establishing a permanent forum for indigenous people within the United Nations system and, considered that it must be established at the highest possible level with a role in both the prevention and resolution of conflicts between indigenous peoples and States and the monitoring of the human rights of indigenous peoples. It was necessary for the Sub-Commission to study the mechanisms and procedures by which the forum could operate.

46. It was a matter of great concern that the Member States did not seem to attach much importance to the draft United Nations declaration on the rights of indigenous peoples. There was an urgent need for it to be adopted before the end of the International Decade of the World's Indigenous People, and he urged the Sub-Commission to study ways of speeding up the adoption process.

47. Mr. BENGOA said that, in his final report on treaties, agreements and other constructive arrangements between States and indigenous populations (E/CN.4/Sub.2/1999/20), Mr. Alfonso Martinez had made a clear-cut political distinction between indigenous peoples and other groupings which should not be recognized as indigenous by the international community. He had made that distinction because he considered that, in Asia and Africa, there were no generalized situations of "indigenousness". The factor differentiating minorities from indigenous peoples was that of the latter's aboriginal nature. As a result, the concept of "indigenous" was almost exclusive to the Americas, Oceania and a few other places.

48. It was necessary, however, to take into account the indigenous nature of certain peoples in Africa and in other areas where the process of domination was not through immigration or the imposition of a European or "transatlantic" culture. In that connection, the report probably made too little use of the old distinction between indigenous and tribal people. It was not an easy topic to deal with, since it formed a social continuum with no established frontiers and, although it was satisfactory and practical to opt for a political and instrumental kind of differentiation, the basis for discussion was really the anthropological distinction between a nation and an ethnic group.

49. The current report dealt with the national question in terms of colonization processes whereby the collectivity had been dominated as a whole without the elite members of indigenous societies necessarily being destroyed. In his previous reports, Mr. Alfonso Martinez had dealt in detail with various forms of colonialism employed by anglophone and Hispanic countries, and that was probably a more fertile point of departure for an analysis.

50. Mr. Alfonso Martinez had noted that treaties or other international instruments of a contractual nature had been entered into with the very powerful motivation of legitimizing rights which States could use to counter opposing claims advanced by other colonial Powers. That was quite a clear and precise definition for North America or Oceania but it did not apply too well to Latin America, where an agreed division of territory between the Spanish and the Portuguese had been sponsored by the Pope.

51. On the question as to whether or not indigenous peoples could be considered as nations in the sense of contemporary international law, a central issue for future discussion of the subject in the international context, Mr. Alfonso Martinez had been unable to find any solid legal argument indicating that they had lost their international legal status as nations/peoples. That was an important conclusion, but not everyone accepted it. He had also established the absolute equality of all peoples on Earth with regard to the inalienable right to self-determination. That was a general principle that should be considered in greater depth and form the subject of future studies.

52. Since indigenous peoples and colonial nations had not in the past been differentiated in international politics, it was necessary to incorporate the concept of ethnogenesis. Ethnicity was an evolving historical process, and a more historicist concept should be adopted to distinguish between peoples and nations. The word "nation" implied a desire for a leading role and

self-development, while the word "people" affirmed a cultural identity. Such concepts were fundamental when it came to analysing the various ways of exercising the universal right to self-determination of peoples, for some peoples had always been nations and had been colonized as such, while other groups had never had their own State but were seeking, through a process of self-identification, to form political organizations above and beyond a common cultural identity.

53. He personally did not agree with the observation in the report (para. 303) concerning the issue of "self-government" and "autonomy" offered in certain cases as a substitute for the full exercise of ancestral governance rights. In many cases, indigenous people had never had State structures, and it was important to remember that the concepts of "nation" and "nationalism" had appeared in the nineteenth century only. In its discussions, the Sub-Commission would have to examine in greater detail how the principle of self-determination was to be exercised in an increasingly globalized world.

54. The study, which was provocative, polemical, innovative and timely, would undoubtedly stimulate more studies on the subject and he, consequently, congratulated its author.

55. Mr. MEHEDI, noting the complementarity between the activities of NGOs and intergovernmental initiatives to assist indigenous people in their efforts to maintain their identity and cultural heritage, said he wished to emphasize UNESCO's efforts to promote their rights through its Associated Schools Project Network and other initiatives to provide education in human rights in general and the rights of indigenous people in particular.

56. Human rights education and the International Decade of the World's Indigenous People would do much to increase public awareness of the rights of indigenous people. He welcomed the provision by the Office of the High Commissioner for Human Rights (OHCHR) of training programmes and fellowships to give indigenous people the opportunity to acquire knowledge of the international human rights conventions as they affected them and to help their organizations and communities to protect and promote their human rights.

57. He fully endorsed the recommendations by Mr. Alfonso Martínez in his final report on treaties, agreements and other constructive arrangements between States and indigenous populations (E/CN.4/Sub.2/1999/20) that three workshops should be convened at the earliest possible date in the framework of the Programme of Action for the International Decade of the World's Indigenous People, namely, on the establishment of an international conflict-resolution mechanism on indigenous issues; on modalities for redressing the effects of the historical process of land dispossession suffered by indigenous peoples; and on the implementation and observance of indigenous treaty bodies; and that the creation of an Internet page be promoted that would be exclusively dedicated to indigenous issues and United Nations activities relating to indigenous interests.

58. Ms. MUZIO (International League for the Rights and Liberation of Peoples) said that most surviving natural resources were situated in indigenous territories, such as the primeval forests of Central America, which had been maintained in harmonious coexistence with indigenous communities who

saw the land as the basis of the reproduction of their peoples and their cultures, but were in the course of despoliation by people of Western cultu who viewed nature as something over which man held supremacy.

59. The destruction of biodiversity, attended by social and cultural decline, made it imperative to establish a new relationship between indigen communities and Governments, with full participation of the communities in decision-making. The international instruments already existed to achieve such a partnership but those principles were not always respected in nation legislation.

60. The right to self-determination recognized in the draft United Nation declaration on the rights of indigenous peoples should not be regarded as a threat to the territorial integrity of existing national States, and misunderstandings and disagreements on that point needed to be clarified an dispelled by a full discussion with the participation of all the groups concerned.

61. The situation of the Mapuche people in Chile and the various indigeno peoples of Mexico called for special attention by the Sub-Commission. Sinc it was impossible to resolve in a short time the many problems that had ari over hundreds of years, it was essential for policies against discriminatio to be maintained. Her organization welcomed the constructive report by Mrs. Daes (E/CN.4/Sub.2/1999/18) on the relationship of indigenous peoples land. The important contribution that they could make to social developmen deserved wider recognition.

62. Mr. WEISSBROT said that Mrs. Daes' second progress report on her working paper (E/CN.4/Sub.2/1999/18) took account both of the common element in the struggle of the indigenous communities and the particular needs of indigenous peoples within their local communities. The final report of Mr. Alfonso Martínez on indigenous treaties (E/CN.4/Sub.2/1999/20), which al addressed very broad and complex issues, drew distinctions that were not always logical or sustainable. Although the latest version of his report recognized that there were indigenous communities all over the world, it was regrettable that he had tried to characterize some of them as minorities and thus outside the scope of his study. His recommendations were, however, generally sensible and thoughtful and, despite its shortcomings, the study represented a milestone in the process of integrating indigenous treaties i broader theories of international treaty obligations.

63. The draft declaration on the rights of indigenous peoples was a very important reaffirmation of general human rights principles and the progress made towards its adoption was among the many valuable contributions made by the Working Group on Indigenous Populations. Some Governments had, however, noted the presence of several unresolved problems and ambiguities in the dra as it currently stood. While indigenous representatives considered self-determination to be the core concept of the declaration, Governments feared that the use of the terms "self-determination" and "peoples" might be construed as giving indigenous societies the right to secede and control separate territories. In his own view, "indigenous self-determination" shoul be understood as, in the words of Mrs. Daes, the right "to negotiate and agr

upon their role in the conduct of public affairs". It was of crucial importance to note the implication that indigenous communities could not act in ways which violate established principles of international human rights law. "Indigenous self-determination" should not, therefore, be seen as a threat to either national interests or international standards.

64. Some Governments had also raised specific concerns regarding the balance between the right to indigenous self-autonomy and the principle of non-discrimination. However, the term "discrimination" in the draft declaration referred only to adverse forms of discrimination, which might place indigenous peoples or individuals at a disadvantage relative to other groups. The right to participate fully in the political, economic, social and cultural life of a country could be guaranteed only within a national context. Affirmation of the right of indigenous peoples to participate in national affairs, as well as to engage in the life of their communities, might help to temper any conceptual conflicts that might exist between the need to ensure both self-determination and non-discrimination.

65. The notion of collective rights also gave rise to concern in some countries that saw human rights as primarily embodied in the individual. The rights set forth in the draft declaration were not, however, unlike the fundamental human rights articulated in the International Bill of Human Rights, which included several collective rights, including those to form associations (trade unions), to practise one's religion, and, of course, the rights of minorities. Collective rights did occasionally compete with individual rights and it was of crucial importance to recognize that the emphasis on collective rights did not privilege them over those of the individual, but rather extended those rights to communities as a whole.

66. In discussing the draft declaration, Governments had focused on the relatively less controversial issues in the hope of building a working relationship with the indigenous participants but the latter had unfortunately been unwilling to negotiate on those issues out of fear that compromises might undermine fundamental issues relating to self-determination and land rights. The time seemed to have come for all the negotiators to focus on the major issues so as to overcome the impediments that had arisen.

67. Mr. RIDD congratulated Mrs. Daes and the other members of the Working Group on Indigenous Populations on their work which had, over the years, resulted in substantial changes in the legislation of many countries. The Working Group must continue its activities until the permanent forum was established. As far as the important issue of land rights was concerned, Mrs. Daes' analysis, in the second progress report on her working paper (E/CN.4/Sub.2/1999/18), of the doctrines of dispossession, and her discussion of the concepts of terra nullius and Crown land, were of great practical and theoretical interest. She also discussed a mechanism for negotiation, the question of constitutional reform and framework legislation and explored various initiatives taken by the indigenous peoples themselves. Perhaps some discussion of the role of international financial institutions, including the World Bank, in framing their development programmes might also be included in the final form of the report. He was in general agreement with her recommendations (paras. 132-149).

68. The long-awaited study by Mr. Alfonso Martinez on treaties, agreements and other constructive arrangements had matured over time and changed in scope and content. The final report thereon (E/CN.4/Sub.2/1999/20) was polemical and thought provoking, as its author recognized in expressing his openness to criticism. The absolute dichotomy between indigenous peoples and minorities was not acceptable any more than the restriction of the "indigenous" concept to encounters between European colonizers and non-European peoples.

69. There also seemed to be some elements of contradiction within the report: paragraph 25e affirmed the right of indigenous peoples to self-determination, whereas ethnic groups living inside African and Asian States were excluded from the indigenous category and the right of those States, and indeed their duty, to preserve their "fragile territorial integrity" was proclaimed (para. 89). Since Mr. Alfonso Martinez also expressed the view in paragraph 25e that any contradiction that might emerge between the exercise of the right by indigenous peoples to self-determination and the recognized right and duty of the States in which they lived to protect their territorial integrity should be resolved by peaceful means, it was not at all clear why that principle should not apply to African and Asian situations also.

70. In paragraphs 90 and 91 of the report, a far-reaching proposal was made for a special jurisdiction to handle what amounted to the claim of self-determination for indigenous peoples, as defined by the author. As Mr. Weissbrodt had said, there was need for further clarification of such terms as self-determination, which could readily become shibboleths, destructive to thinking and analysis and disruptive of international harmony.

71. Mr. [illegible] (Franciscans International), speaking also on behalf of Dominicans for Justice and Peace, said that Mrs. Daes' important working paper (E/CN.4/Sub.2/1999/18) referred to the inequalities and injustices to indigenous peoples contained in legislation of the various States in which they lived and which had been exacerbated by neo-liberal economic policies that viewed those people and their lands in terms of money and profit. The paper rightly observed that the legacy of colonialism was probably most acute in the expropriation of indigenous lands carried out with little concern for the long-term effects on the lives of indigenous peoples. A recent blatant example had occurred in the Chinalapas region of the State of Oaxaca in Mexico where, although the rights of the local Zoque people had been recognized by both the Spanish colonial authorities and the Mexican Federal authorities, Zoque land had been illegally incorporated into the State of Chiapas in collusion with forestry and cattle farming interests.

72. In order to underpin their claims to justice, some indigenous organizations had requested that the term "indigenous peoples" be included in international law since such recognition, together with the concept of collective rights, would give a new dimension to the understanding of human rights. Others sought recognition of indigenous legal systems to dispense justice on the basis of their own traditions and customs. If the working paper was to take on its full value, States must pay serious attention to the recommendations it contained, and the Sub-Commission must take effective follow-up action to the issues raised at its current session.

73. Ms. PARKER (International Educational Development, Inc.) said that her organization had been particularly impressed by Mr. Alfonso Martínez's study on treaties, agreements and other constructive arrangements between States and indigenous populations (E/CN.4/Sub.2/1999/20), and strongly supported his conclusion that Hawaii should be re-entered on the United Nations list of non-self-governing territories and resubmitted to competent bodies in the field of decolonization (paras. 163 and 164).

74. Her organization was particularly concerned about the war against the indigenous people in Chiapas, Mexico, where, since the ending of military action by the Zapatista National Liberation Army (EZLN), government troops had effected a mass occupation of the area and, in collusion with paramilitary forces, had carried out some of the worst massacres of indigenous peoples that the century had seen, and had driven more than 20,000 of them from their homes.

75. Although Mexico was a signatory of ILO Convention No. 169, which recognized the right of indigenous communities to live according to their traditional ways, and had signed the San Andres accords of February 1996, also guaranteeing that right, it was currently launching a military assault upon autonomous municipalities as and when they were formed. One noteworthy example was the municipality of Ricardo Flores Magon, from which human rights workers had been expelled, after which a military encampment had been established in the community.

76. She called upon the Sub-Commission to condemn even more forthrightly than at its preceding session such violations of indigenous rights, which had recently been brought once again to international attention by the visit to Mexico of the Commission's Special Rapporteur on extrajudicial, summary or arbitrary executions.

The meeting rose at 1 p.m.